

FILED
Superior Court of California
County of Riverside

2/19/2020

C. Ortiz

Electronically Filed

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10 Attorneys for Plaintiffs/Claimants
11 AT&T MOBILITY LLC,
PACIFIC BELL TELEPHONE COMPANY,
12 AT&T CORP.

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14
15 **SUPERIOR COURT OF CALIFORNIA**
16 **COUNTY OF RIVERSIDE**
17

18 AT&T MOBILITY LLC, PACIFIC BELL
19 TELEPHONE COMPANY, AT&T CORP.,

20 Plaintiffs/Claimants,

21 v.

22 COUNTY OF RIVERSIDE, THE STATE
23 BOARD OF EQUALIZATION,

24 Defendants.

Case No. RIC 1905814

FIRST AMENDED VERIFIED COMPLAINT
FOR PROPERTY TAX REFUND AND
DECLARATORY JUDGMENT

UNLIMITED CIVIL CASE

1 AT&T Mobility LLC, Pacific Bell Telephone Company, and AT&T Corp. (collectively,
2 “Claimants”) file this action pursuant to Revenue and Taxation Code section 5140 to challenge the
3 decision of the Board of Supervisors of defendant County of Riverside (“Defendant” or “Riverside”)
4 to reject Claimants’ claims for refund of property taxes. As set forth below, Riverside calculated,
5 levied, and collected property taxes from Claimants in a manner that is contrary to law and violates
6 the California Constitution.

7 **PARTIES**

8 1. Claimant AT&T Mobility LLC is a limited company duly organized and existing
9 under the laws of the State of Delaware, with its principal place of business located at 1025 Lenox
10 Park Blvd. NE, Atlanta, County of Fulton, Georgia. Claimant is a privately-held public utility whose
11 property value is assessed by the Defendant the California State Board of Equalization (“BOE”)
12 pursuant to Article XIII, section 19 of the California Constitution. Claimant pays taxes to various
13 counties throughout California, including Riverside. Claimant’s Assessment Number is 33-606.
14 Claimant’s BOE Number is 2606.

15 2. Claimant Pacific Bell Telephone Company is a corporation duly organized and
16 existing under the laws of the State of California, with its principal place of business located at 430
17 Bush Street, San Francisco, County of San Francisco, California. Claimant is a privately-held public
18 utility whose property value is assessed by the BOE pursuant to article XIII, section 19 of the
19 California Constitution. Claimant pays taxes to various counties throughout California, including
20 Riverside. Claimant’s Parcel Number is 33-279. Claimant’s BOE Number is 0279.

21 3. Claimant AT&T Corp. is a corporation duly organized and existing under the laws of
22 the State of New York, with its principal place of business located at One AT&T Way, Bedminster,
23 Somerset County, New Jersey. Claimant is a privately-held public utility whose property value is
24 assessed by the BOE pursuant to article XIII, section 19 of the California Constitution. Claimant pays
25 taxes to various counties throughout California, including Riverside. Claimant’s Parcel Number is
26 33-310. Claimant’s BOE Number is 2310.

1 4. Defendant the County of Riverside is, and at all times herein mentioned was, a County
2 and political division of the State of California. Defendant has the power and authority to levy taxes
3 on state-assessed property, including Claimants', pursuant to the tax rate set forth in Revenue and
4 Taxation Code section 100(b). Defendant has levied and collected property tax paid by Claimants.
5 Defendant is a named party to this action pursuant to Revenue and Taxation Code section 5140.

6 5. Defendant the BOE's role is described more fully below. Although the BOE lacks
7 jurisdiction to decide the tax rate set by Riverside and applied to valuations of state-assessed
8 properties, including those of Claimants at issue here, and therefore cannot provide any of the relief
9 sought herein, the BOE nonetheless is named as a party to this action pursuant to Revenue and
10 Taxation Code section 5146. That section states, in relevant part, the following: "If all or any portion
11 of the taxes sought to be recovered were levied on state-assessed property . . . the board [BOE] shall
12 be joined as a party to the action." (Rev. & Tax Code § 5146.) Although Revenue and Taxation Code
13 section 5148 also requires the BOE to be named as a defendant under certain circumstances, those
14 circumstances do not exist here. Specifically, that section provides, in relevant part, that the BOE
15 must be named in "an action to recover taxes levied on state-assessed property arising out of a dispute
16 as to an assessment made pursuant to Section 721, including a dispute as to valuation, assessment
17 ratio, or allocation of value for assessment purposes" (Rev. & Tax. § 5148.) In the instant
18 action, Claimants do not challenge nor dispute BOE's assessment, valuation, or allocation of value
19 for assessment purposes of their state-assessed properties. Rather, Claimants only challenge the tax
20 rate that Riverside has levied on Claimants' state-assessed properties, as described more fully below.
21 As such, section 5148 is inapplicable. The BOE's advisory opinion letter, attached hereto as Exhibit
22 13, reaches the same conclusion: "a refund action disputing the appropriate rate of tax to apply to a
23 state-assessment is not properly brought under section 5148 since it is not a 'dispute to an assessment
24 made pursuant to section 721.'" Exh. 13 at 4.

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27 ///

1 **JURISDICTION AND VENUE**

2 6. This Court, as a court of general jurisdiction, has jurisdiction over this matter pursuant
3 to Article VI, section 1, of the California Constitution and pursuant to Revenue and Taxation Code
4 section 5140 and California Code of Civil Procedure section 1060.

5 7. Venue is proper in this Court pursuant to Code of Civil Procedure sections 393(b) and
6 394(a) because Claimants’ causes of action arise in the County of Riverside and the claims are
7 against the County of Riverside.

8 **FACTUAL ALLEGATIONS**

9 **I. GENERAL BACKGROUND**

10 8. The BOE annually assesses all taxable property in the State, except franchises, owned
11 or used by regulated privately-owned utilities, including telephone companies such as Claimants.
12 (Cal. Const. art. XII § 19; Rev. & Tax. Code §§ 721, 722.)

13 9. The BOE must prepare and transmit a roll to each county auditor showing unitary and
14 operating nonunitary assessments made by the BOE in the county. (Rev. & Tax. Code §§ 722, 756.)

15 10. Property assessed by the BOE under Article XIII, section 19 of the California
16 Constitution is deemed “state-assessed property.” State-assessed property is subject to local taxation
17 by the counties. (Rev. & Tax. Code § 108 [“State assessed property. ‘State-assessed property’ means
18 all property required to be assessed by the board under Article XIII, section 19 of the Constitution
19 and which is subject to local taxation.”].)

20 **II. SPECIFIC ALLEGATIONS**

21 11. Claimants are privately-held public utilities. The fair market value of their property is
22 assessed by the BOE in May of each year under Article XIII, section 19, of the California
23 Constitution, and Revenue and Taxation Code sections 721, 722 and 731. Claimants’ California
24 properties that are operated and valued as a unit are defined under section 723 as “unitary property,”
25 and are valued as a going concern annually by the BOE. Property not valued through the use of unit
26 valuation is defined under that section as “nonunitary property.” The BOE also assesses the value of
27
28

1 Claimants' operating nonunitary properties, as defined under section 723.1. Together, the unitary and
2 operating nonunitary property are referred to as state-assessed properties.

3 12. For fiscal year 2014-15, the BOE assessed the value of Claimants' state-assessed
4 California property. Pursuant to its authority under Revenue and Taxation Code section 756, the BOE
5 transmitted to Riverside a roll showing Claimants' state-assessed property in Riverside.

6 13. As described more fully herein, Claimants do not challenge the BOE's valuation or
7 allocation of its state-assessed property.

8 14. Pursuant to Revenue and Taxation Code section 100(b), after the BOE's valuation and
9 allocation of Claimants' state-assessed property, Riverside then calculated the tax rate to apply
10 against the value of Claimants' state-assessed property allocated to Riverside County. Specifically,
11 Riverside used BOE's allocated value of Claimants' state-assessed property, calculated the tax rate
12 for that property based on the formula set forth in section 100(b), and then levied taxes on Claimants'
13 property for said fiscal year in the sum of \$1,822,018 (for AT&T Mobility), \$1,812,947 (for Pacific
14 Bell), and \$220,326 (for AT&T Corp.). True and correct copies of those tax bills are attached as
15 Exhibits 1, 2, and 3.

16 15. Claimants timely paid in full those taxes. True and correct copies of proof of those
17 payments are attached as Exhibits 4, 5 and 6.

18 16. On or about November 14, 2018, Claimants submitted verified claims for refund of
19 property taxes to the Board of Supervisors for Riverside. In those claims, Claimants requested a
20 refund of a portion of the property taxes paid, in the amount of \$455,247, plus appropriate interest
21 (for AT&T Mobility), \$452,981, plus appropriate interest (for Pacific Bell), and \$55,050, plus
22 appropriate interest (for AT&T Corp.). True and correct copies of those claims for refund are
23 attached as Exhibits 7, 8, and 9.

24 17. Claimants claimed refunds on the grounds that the rate adopted and applied by
25 Riverside pursuant to section 100(b) to the value assessed by the BOE for Claimants' state-assessed
26 property and used to calculate the property tax was contrary to law. Specifically, the property tax rate
27 applied by Riverside to compute Claimants' property taxes was in excess of the separately calculated
28

1 rate applied in the same year to property on the secured roll in Riverside County assessed by the
2 Riverside County property tax assessor. The higher property tax rate for Claimants' state-assessed
3 property violates Article XIII, section 19 of the California Constitution.

4 18. Article XIII, Section 19 of the California Constitution states, in relevant part, the
5 following:

6 State board to assess and tax property of public utilities. The Board shall
7 annually assess (1) pipelines, flumes, canals, ditches, and aqueducts
8 lying within 2 or more counties and (2) property, except franchises,
9 owned or used by regulated railway, telegraph, or telephone companies,
10 car companies operating on railways in the State, and companies
11 transmitting or selling gas or electricity. *This property shall be subject to
taxation to the same extent and in the same manner as other property.*
No other tax or license charge may be imposed on these companies
which differs from that imposed on mercantile, manufacturing, and other
business corporations. (emphasis added)

12 Cal. Const. art. XIII, § 19. The California Supreme Court has interpreted the emphasized language in
13 that provision to require that state-assessed property and locally-assessed property be taxed at the
14 same tax rate. (*ITT World Commc'ns v. City & County of San Francisco* (1985) 37 Cal.App.2d 361.)

15 19. Claimants also sought a refund on the basis that the property tax rate applied by
16 Riverside to compute Claimants' property taxes exceeded the rate allowed by Article XIII A, section 1
17 of the California Constitution. That provision states, in relevant part, the following: "The maximum
18 amount of any ad valorem tax on real property shall not exceed One percent (1%) of the full cash
19 value of such property. The one percent (1%) tax to be collected by the counties and apportioned
20 according to law to the districts within the counties." Cal. Const. art. XIII A, § 1.

21 20. In fiscal year 2014-2015, the unitary tax rate calculated and applied by Riverside to
22 Claimants was 1.5397% while the average tax rate paid by locally-assessed tax payers on the secured
23 property tax roll in Riverside during that time was 1.1550%. As such, the unitary rate – i.e., the rate
24 applied to state assessed property according to section 100(b) – is 133% of the tax rate applied to
25 locally-assessed properties on the secured roll.

26 21. Riverside denied Claimants' claims for refunds on June 25, 2019, true and correct
27 copies of which are attached as Exhibits 10, 11, and 12.

1 28. An actual controversy has arisen between Claimants and the County of Riverside
2 regarding the constitutionality and legal enforceability of Revenue and Taxation Code section 100(b).

3 29. Claimants are entitled to a declaration of rights regarding the constitutionality and
4 enforceability of section 100(b) in light of Article XIII, section 19 of the California Constitution.

5 **THIRD CAUSE OF ACTION**
6 (Declaratory Relief)

7 30. Claimants reallege and incorporate by reference Paragraphs 1 through 29 as though set
8 forth in full.

9 31. An actual controversy has arisen between Claimants and the County of Riverside
10 regarding the constitutionality and legal enforceability of the tax rate used by the County of
11 Riverside.

12 32. Claimants are entitled to a declaration of their rights regarding the constitutionality
13 and enforceability of the tax rates applied to it in light of Article XIII, section 1, of the California
14 Constitution.

15 **PRAYER FOR RELIEF**

16 WHEREFORE, Claimants pray for judgment against the County of Riverside as follows:

- 17 1. For a declaratory judgment that Revenue and Taxation Code section 100(b) is
18 unconstitutional, and void and unenforceable, pursuant to the California
19 Constitution;
- 20 2. For a declaratory judgment that the tax rate applied by the County of Riverside
21 pursuant to Revenue and Taxation Code section 100(b) to Claimants' state-
22 assessed property in the County of Riverside violates Article XIII, section 19 of
23 the California Constitution;
- 24 3. For a declaratory judgment that the tax rate applied by the County of Riverside to
25 Claimants' state-assessed property may not exceed the tax rate applied by the
26 County of Riverside to locally-assessed property;
- 27

- 1 4. For a finding that Claimants be awarded judgment against the County of Riverside
- 2 in the amount of \$455,247, plus appropriate interest (for AT&T Mobility),
- 3 \$452,981, plus appropriate interest (for Pacific Bell), and \$55,050, plus
- 4 appropriate interest (for AT&T Corp.) which constitutes the amount of property
- 5 taxes Claimants overpaid based on the County of Riverside's calculation of
- 6 Claimants' tax rate under Revenue and Taxation Code section 100(b);
- 7 5. For Claimants' reasonable attorneys' fees, as permitted by law;
- 8 6. For Claimants' costs of suit herein; and
- 9 7. For such other and further relief as the Court may deem just.

10 Dated this 19th day of February, 2020

BOERSCH & ILLOVSKY LLP

11
12 By: 

13 Martha A. Boersch
14 Attorney for Plaintiffs/Claimants
15 AT&T MOBILITY LLC
16 PACIFIC BELL TELEPHONE COMPANY
17 AT&T CORP.
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1 **VERIFICATION**

2 I, Gary Hunter, am AVP-Tax of AT&T Services, and am authorized to make this verification
3 for and on behalf of AT&T Mobility LLC, Pacific Bell Telephone Company, and AT&T Corp. I have
4 read the forgoing First Amended Verified Complaint For Property Tax Refund And Declaratory
5 Relief and know the contents thereof. The factual matters stated in the forgoing document are true of
6 my knowledge, except as to those matters which are stated on information and belief, and as to those
7 matters, I believe them to be true. I declare under penalty of perjury under the laws of the State of
8 California that the foregoing is true and correct.

9
10 Executed this 19th day of February 2020 in Dallas, Texas.

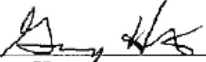
11 
12 _____
13 Gary Hunter
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EXHIBIT 1



RIVERSIDE COUNTY SECURED PROPERTY TAX BILL

For Fiscal Year July 1, 2014 through June 30, 2015

Offices in Riverside, Palm Desert and Temecula
Visit our website: www.countytreasurer.org

IMPORTANT INFORMATION ON REVERSE SIDE

4080 Lemon St (1st Floor) Riverside, California
(P.O. Box 12005, Riverside, CA 92502-2205)

Telephone: (951) 955-3900
or, from area codes 951 and 760 only
toll free: 1 (877) RIVCOTX (748-2689)

Property Data	SEE ATTACHMENT	ASSESSMENT NUMBER	33-606	
Address Owner,	JAN 1, 2014 AT&T MOBILITY LLC	Tax Rate Area	Bill Number SBE	
			ACH 10028630-03 ✓	

AT&T MOBILITY LLC
C/O AT&T PROPERTY TAX GROUP
909 CHESTNUT ST., RM #36-M-01
ST. LOUIS, MO 63101-0000

All questions about ownership, values or exemptions must be directed to the Riverside County Assessor at (951) 955-6200.

UNPAID PRIOR-YEAR TAXES
(See Item #6 on reverse)

Tax bill requested by	Loan Identification	Multiple Bills
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CHARGES LEVIED BY TAXING AGENCIES (See Item #4 on reverse)	AMOUNT

LAND STRUCTURES TRADE FIXTURES TRGES & VINES	
BUSINESS PERSONAL PROPERTY	
FULL VALUE EXEMPTIONS	_____
NET VALUE	_____
TAX RATE PER \$100 VALUE	_____
TAXES	
Special Assessments & Fixed Charges	
TOTAL AMOUNT If over \$50,000, see Item #1 on reverse	✓ \$1,812,946.96

Add 10% penalty after 12/10/2014	\$906,473.48	Add 10% penalty plus cost after 04/10/2015	\$906,473.48
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PLEASE KEEP TOP PORTION FOR YOUR RECORDS

EXHIBIT 2

EXHIBIT 3

EXHIBIT 4



EXHIBIT 5

Oracle Applications - p10148

Payment Overview (ORA) Payment Overview (ORA)

Operating Unit: SAC Corporation - C00

Number: 3156736

Category: 230

Amount: 91128.65

Date: 02-DEC-2014

Payment Process Request: 5589 EFT120714-15320

Voucher: 112323483

Status: Reconciled

Cleared Amount: 91128.65

Cleared Date: 02-DEC-2014

Void Date:

Invoice Date:

Accounting Period:

Invoice #: 112323483

Payment:

Paid To Name: RIVERSIDE COUNTY TAX COLLECTOR

Taxpayer ID:

Supplier Number: 1682638

Address: PO BOX 12000 RIVERSIDE, CA 92502 United States

Bank:

Name: JPMorgan Chase Bank, N.A.

Account: 5589 - EFT 42

Payment Currency: EFT 42

Payment Method: Electronic

Payment Process Profile: US BACNA Generic

Line	Line Type	Line Description	Amount	Payment Method	Payment Process Profile
1	Payment	5589 EFT120714-15320	91128.65	Electronic	US BACNA Generic

Invoice Overview

Bank

Supplier

Payments

Invoice Overview

Accounting Period: Preclosed

Payment Overview

Oracle Applications - p10768

Payment Overview (P40) Payments Operations

Operating Unit: 156 Corporation - Corp

Number: 71899438

Country: USD

Amount: 91126.05

Date: 01 APR 2015

Payment Process Profile: 5900 EFT/MTS 5:18:13

Invoice Number: 714838391

Created Amount: 91126.05

Created Date: 01 APR 2015

Valid Date:

Validity Date:

Accounting Party:

Invoice #:

Payee:

Pay To Name: REVERSHIRE COUNTY TAX COLLECTOR

Taxpayer ID: 10028330

Supplier Number: 10028330

Site: 03

Address: PO BOX 12885
REVERSHIRE, CA 92502
United States

Bank: JPMorgan Chase Bank, N.A.

Account: 5598 EFT 42

Payment Document: EFT 42

Payment Method: Electronic

Payment Process Profile: 011 NACMA Generic

Invoice Date	Payment Amount	Pay
01 APR 2015	91126.05	US\$

Invoice #	Amount Paid	On Date	Description
7147387-7189942	91126.05	01 APR 2015	

Invoice Overview Bank Supplier Payments

Invoice Overview

Accounting: Processed

Payment Overview

EXHIBIT 6

Oracle Applications - glr11all

Payment Details (WAF) F04001 (Payments)

Operating Unit: **US Corporation** Dept: **0000**

Invoice Number: **31547317** Supplier: **REVERSE COUNTY TAX COLLECTOR**

Currency: **USD** Taxpayer ID:

Amount: **118728.41** Supplier Number: **10020030** Site: **03**

Date: **02 DEC 2014** Address: **PO BOX 12885
RIVERSIDE, CA 92502
United States**

Payment Purpose Reason: **5580 EFT12/2014-15200**

Invoice: **11252162** Bank: **JPMorgan Chase Bank, N.A.**

Account: **5540 - EFT 42**

Payment Document: **EFT 42**

Payment Method: **Electronic**

Payment Purpose Profile: **US NACHA Generic**

Invoice Date	Payment Amount	Pay
12-2014	118728.41	95.4

Payment Amount: **118728.41**

Invoice Owner: **Accounting** Processed

Payment Owner: **Accounting**

Record ID: **118728.41**

Oracle Applications - gl0266

Payment Overview (Oracle Payables Operations)

Operating Unit: USC Corporation - City

Number: 3189927

Currency: USD

Amount: 118728.41

Date: 01 APR 2015

Payment Process Request: 5598 EST4/1/15 1:08:13

Vendor: 11422943

Status: Unavailable

Cleared Amount: 718728.41

Created Date: 01 APR 2015

Valid Date:

Security Data:

Accounting Relation:

Invoice #

Invoice Date

Amount Paid

GL Date

Description

PT47387-195253

118728.41

01 APR 2015

Invoice Overview

Bank

Supplier

Payments

Invoice Overview

Accounting Processed

Payment Overview

Pay To Name: INVERSIDE COUNTY TAX COLLECTOR

Taxpayer ID:

Supplier Number: 11929638

Site: 03

Address: PO BOX 12065, INVERSIDE, CA 92502, United States

Bank: JPMorgan Chase Bank, N.A.

Account: 5598 EST 42

Payment Terms: EST 42

Payment Method: Electronic

Payment Process Profile: US RACMA Generic

Invoice Date	Amount Paid	GL Date	Description
PT47387-195253	118728.41	01 APR 2015	

Invoice Date	Amount Paid	GL Date	Description
PT47387-195253	118728.41	01 APR 2015	

Invoice Date	Amount Paid	GL Date	Description
PT47387-195253	118728.41	01 APR 2015	

Payment Overview

Invoice Date	Amount Paid	GL Date	Description
PT47387-195253	118728.41	01 APR 2015	

Accounting Processed

Payment Overview

Oracle

EXHIBIT 7



**COUNTY OF RIVERSIDE
CLAIM FOR REFUND OF TAX PAYMENT(S)**

Reset Form

Claimant's Name: First: AT&T Mobility LLC Last: _____
 Mailing Address: 1010 Pine St, ROOM 9E-L-01 City: St Louis
 State: MO Zip: 63101 Contact No.: ((214) 782-3738

Assessor's Parcel Number: 33-606 (Assessment Number)
 Property Address: SBE assessed unitary property City: _____ Zip: _____

In accordance with the provisions of Chapter 5, Article I, of the California Revenue and Taxation Code (commencing with Section 5096), I am (we are) herewith filing this claim with the Board of Supervisors of the County of Riverside, and ask that a refund of taxes and/or penalties be made for the following amounts:

Fiscal Year(s) Refund is Claimed	Date(s) Taxes Paid	Amount of Tax Claim	Amount of Penalty Claim	Total Amount
<u>20¹⁴</u>	<u>12/02/2014</u>	<u>\$452,980.64</u>	<u>\$</u>	<u>\$452,980.64</u>
<u>20</u>		<u>\$</u>	<u>\$</u>	<u>\$</u>
<u>20</u>		<u>\$</u>	<u>\$</u>	<u>\$</u>
<u>20</u>		<u>\$</u>	<u>\$</u>	<u>\$</u>
<u>20</u>		<u>\$</u>	<u>\$</u>	<u>\$</u>

I (we) claim that the whole assessment (part of the assessment) for the year(s) as shown is (are) void for the following reasons (use attachments if necessary):
SEE ATTACHED

I hereby declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct; that the taxes and/or penalties sought to be refunded were paid within four years prior to the filing of this claim; that the amounts herein claimed are correct; and no part thereof has been refunded to the claimant or to any other person for claimant's benefit; and if acting on behalf of a legal entity, I am duly authorized to act on its behalf and that the title shown below is true and correct.

Date: 4/14/16 Signature: [Signature] Title: AVP-TAX

PLEASE NOTE: *This form is provided as a courtesy and does not constitute legal advice to claimants. Claimants are strongly advised to consult an attorney regarding their rights and obligations, particularly with regard to exhaustion of administrative remedies and the applicability of statutes of limitation on filing claims and lawsuits for refund of property taxes.*

THIS FORM MUST BE SIGNED AND RETURNED WITH PROOF OF TAX PAYMENT TO:

Riverside County Clerk of the Board of Supervisors

4080 Lemon Street, 1st Floor

Riverside, CA 92502

Phone (951) 955-1060

Fax (951) 955-1071

Internet: www.rivcocob.org

County Use Only

Print Form

Date Received: _____	Date Referred to County Counsel: _____
Signature: _____	Title: _____ Date: _____

CLAIM FOR REFUND OF PROPERTY TAXES

To: Board of Supervisors, County of *RIVERSIDE*, California.

The undersigned, as *AVP-TAX* of *AT&T Services*, as delegated by the claimant herein, hereby makes this claim for refund of property tax on behalf of the claimant pursuant to Revenue and Taxation Code section 5097 and demands that the Board of Supervisors make its order directing the controller of said County to refund to claimant the sum of \$455,247 in taxes levied for the fiscal year 2014-15. In support of said claim, the undersigned states:

1. Claimant is and at all times herein mentioned was *AT&T Mobility LLC*, a limited liability company duly organized and existing under the laws of the State of Delaware, with its principal place of business located at 1025 Lenox Park Blvd NE, Atlanta, Fulton County, Georgia.
2. For fiscal year 2014-15, the California State Board of Equalization assessed the value of claimant's unitary and nonoperating California property pursuant to its authority under Article XIII, section 19 of the California Constitution and section 721 of the Revenue and Taxation Code. Pursuant to its authority under Revenue and Taxation Code section 756, the California Board of Equalization transmitted a roll showing claimant's unitary and nonoperating property in *RIVERSIDE* County. On the basis of said assessment and transmittal of said roll, taxes were levied on said property for said fiscal year in the sum of \$1,822,018 (Exhibit 1) and paid by claimant in full on or about *December 2, 2014* and *April 1, 2015* (Exhibit 2).
3. Claimant is entitled to a refund of a portion of said taxes in the amount of \$455,247, plus appropriate interest, on the grounds that said taxes were erroneously or illegally collected, or illegally assessed or levied, for the following reasons:
 - a. The property tax rate applied to compute claimant's property taxes was in excess of the rate applied in the same year to property in the county assessed by the assessor of

RIVERSIDE County, in violation of Article XIII, section 19 of the California Constitution and *ITT World Communications v. City and County of San Francisco*, 37 Cal. 3d 859 (1985).

b. The property tax rate applied to compute claimant's property taxes exceeded the rate allowed by Article XIII A, section 1 of the California Constitution.

4. No refund of said taxes, or any part thereof, has been previously made.

I declare under penalty of perjury that the foregoing is true and correct, and that I am authorized by claimant to make this claim for refund.

Dated: *November 14, 2018* at 208 S Akard St, Dallas, Texas

Name: Gary Hunter

Title: AVP-TAX

Signature: 

EXHIBIT 8



**COUNTY OF RIVERSIDE
CLAIM FOR REFUND OF TAX PAYMENT(S)**

Reset Form

Claimant's Name: First: Pacific Bell Last: _____
 Mailing Address: 1010 Pine St, ROOM 9E-L-01 City: St Louis
 State: MO Zip: 63101 Contact No.: ((214) 782-3738

Assessor's Parcel Number: 33-279 (Assessment Number)
 Property Address: SBE assessed unitary property City: _____ Zip: _____

In accordance with the provisions of Chapter 5, Article I, of the California Revenue and Taxation Code (commencing with Section 5096), I am (we are) herewith filing this claim with the Board of Supervisors of the County of Riverside, and ask that a refund of taxes and/or penalties be made for the following amounts:

Fiscal Year(s) Refund is Claimed	Date(s) Taxes Paid	Amount of Tax Claim	Amount of Penalty Claim	Total Amount
<u>20¹⁴</u>	<u>12/02/2014</u>	<u>\$455,247.01</u>	<u>\$</u>	<u>\$455,247.01</u>
<u>20</u>		<u>\$</u>	<u>\$</u>	<u>\$</u>
<u>20</u>		<u>\$</u>	<u>\$</u>	<u>\$</u>
<u>20</u>		<u>\$</u>	<u>\$</u>	<u>\$</u>
<u>20</u>		<u>\$</u>	<u>\$</u>	<u>\$</u>

I (we) claim that the whole assessment (part of the assessment) for the year(s) as shown is (are) void for the following reasons (use attachments if necessary):
SEE ATTACHED

I hereby declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct; that the taxes and/or penalties sought to be refunded were paid within four years prior to the filing of this claim; that the amounts herein claimed are correct; and no part thereof has been refunded to the claimant or to any other person for claimant's benefit; and if acting on behalf of a legal entity, I am duly authorized to act on its behalf and that the title shown below is true and correct.

Date: 4/12/16 Signature: [Signature] Title: AVP-TAX

PLEASE NOTE: *This form is provided as a courtesy and does not constitute legal advice to claimants. Claimants are strongly advised to consult an attorney regarding their rights and obligations, particularly with regard to exhaustion of administrative remedies and the applicability of statutes of limitation on filing claims and lawsuits for refund of property taxes.*

THIS FORM MUST BE SIGNED AND RETURNED WITH PROOF OF TAX PAYMENT TO:

Riverside County Clerk of the Board of Supervisors

4080 Lemon Street, 1st Floor

Riverside, CA 92502

Phone (951) 955-1060

Fax (951) 955-1071

Internet: www.rivcocob.org

County Use Only

Print Form

Date Received: _____ Date Referred to County Counsel: _____
Signature: _____ Title: _____ Date: _____

CLAIM FOR REFUND OF PROPERTY TAXES

To: Board of Supervisors, County of *RIVERSIDE*, California.

The undersigned, as *AVP-TAX* of *AT&T Services*, as delegated by the claimant herein, hereby makes this claim for refund of property tax on behalf of the claimant pursuant to Revenue and Taxation Code section 5097 and demands that the Board of Supervisors make its order directing the controller of said County to refund to claimant the sum of \$452,981 in taxes levied for the fiscal year 2014-15. In support of said claim, the undersigned states:

1. Claimant is and at all times herein mentioned was *Pacific Bell*, a corporation duly organized and existing under the laws of the State of California, with its principal place of business located at 430 Bush Street, San Francisco, San Francisco County, California.
2. For fiscal year 2014-15, the California State Board of Equalization assessed the value of claimant's unitary and nonoperating California property pursuant to its authority under Article XIII, section 19 of the California Constitution and section 721 of the Revenue and Taxation Code. Pursuant to its authority under Revenue and Taxation Code section 756, the California Board of Equalization transmitted a roll showing claimant's unitary and nonoperating property in *RIVERSIDE* County. On the basis of said assessment and transmittal of said roll, taxes were levied on said property for said fiscal year in the sum of \$1,812,947 (Exhibit 1) and paid by claimant in full on or about *December 2, 2014* and *April 1, 2015* (Exhibit 2).
3. Claimant is entitled to a refund of a portion of said taxes in the amount of \$452,981, plus appropriate interest, on the grounds that said taxes were erroneously or illegally collected, or illegally assessed or levied, for the following reasons:
 - a. The property tax rate applied to compute claimant's property taxes was in excess of the rate applied in the same year to property in the county assessed by the assessor of *RIVERSIDE* County, in violation of Article XIII, section 19 of

the California Constitution and *ITT World Communications v. City and County of San Francisco*, 37 Cal. 3d 859 (1985).

- b. The property tax rate applied to compute claimant's property taxes exceeded the rate allowed by Article XIII A, section 1 of the California Constitution.

4. No refund of said taxes, or any part thereof, has been previously made.

I declare under penalty of perjury that the foregoing is true and correct, and that I am authorized by claimant to make this claim for refund.

Dated: *November 14, 2018* at 208 S Akard St, Dallas, Texas

Name: Gary Hunter

Title: AVP-TAX

Signature:

A handwritten signature in blue ink, consisting of stylized initials and a surname, written over a horizontal line.

EXHIBIT 9



**COUNTY OF RIVERSIDE
CLAIM FOR REFUND OF TAX PAYMENT(S)**

Reset Form

Claimant's Name: First: AT&T Communications Last: _____
Mailing Address: 1010 Pine St, ROOM 9E-L-01 City: St Louis
State: MO **Zip:** 63101 **Contact No.:** ((214) 782-3738

Assessor's Parcel Number: 33-310 (Assessment Number)
Property Address: SBE assessed unitary property City: _____ Zip: _____

In accordance with the provisions of Chapter 5, Article I, of the California Revenue and Taxation Code (commencing with Section 5096), I am (we are) herewith filing this claim with the Board of Supervisors of the County of Riverside, and ask that a refund of taxes and/or penalties be made for the following amounts:

Fiscal Year(s) Refund is Claimed	Date(s) Taxes Paid	Amount of Tax Claim	Amount of Penalty Claim	Total Amount
<u>20¹⁴</u>	<u>12/02/2014</u>	<u>\$55,050.38</u>	<u>\$</u>	<u>\$ 55,050.38</u>
<u>20</u>		<u>\$</u>	<u>\$</u>	<u>\$</u>
<u>20</u>		<u>\$</u>	<u>\$</u>	<u>\$</u>
<u>20</u>		<u>\$</u>	<u>\$</u>	<u>\$</u>
<u>20</u>		<u>\$</u>	<u>\$</u>	<u>\$</u>

I (we) claim that the whole assessment (part of the assessment) for the year(s) as shown is (are) void for the following reasons (use attachments if necessary):
SEE ATTACHED

I hereby declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct; that the taxes and/or penalties sought to be refunded were paid within four years prior to the filing of this claim; that the amounts herein claimed are correct; and no part thereof has been refunded to the claimant or to any other person for claimant's benefit; and if acting on behalf of a legal entity, I am duly authorized to act on its behalf and that the title shown below is true and correct.

Date: 11/14/13 Signature:  Title: AVP-TAX

PLEASE NOTE: *This form is provided as a courtesy and does not constitute legal advice to claimants. Claimants are strongly advised to consult an attorney regarding their rights and obligations, particularly with regard to exhaustion of administrative remedies and the applicability of statutes of limitation on filing claims and lawsuits for refund of property taxes.*

THIS FORM MUST BE SIGNED AND RETURNED WITH PROOF OF TAX PAYMENT TO:

Riverside County Clerk of the Board of Supervisors

4080 Lemon Street, 1st Floor

Riverside, CA 92502

Phone (951) 955-1060

Fax (951) 955-1071

Internet: www.rivcocob.org

County Use Only

Print Form

Date Received: _____	Date Referred to County Counsel: _____
Signature: _____	Title: _____ Date: _____

CLAIM FOR REFUND OF PROPERTY TAXES

To: Board of Supervisors, County of *RIVERSIDE*, California.

The undersigned, as *AVP-TAX* of *AT&T Services*, as delegated by the claimant herein, hereby makes this claim for refund of property tax on behalf of the claimant pursuant to Revenue and Taxation Code section 5097 and demands that the Board of Supervisors make its order directing the controller of said County to refund to claimant the sum of \$55,050 in taxes levied for the fiscal year 2014-15. In support of said claim, the undersigned states:

1. Claimant is and at all times herein mentioned was *AT&T Corp*, a corporation duly organized and existing under the laws of the State of New York, with its principal place of business located at One AT&T Way, Bedminster, Somerset County, New Jersey.
2. For fiscal year 2014-15, the California State Board of Equalization assessed the value of claimant's unitary and nonoperating California property pursuant to its authority under Article XIII, section 19 of the California Constitution and section 721 of the Revenue and Taxation Code. Pursuant to its authority under Revenue and Taxation Code section 756, the California Board of Equalization transmitted a roll showing claimant's unitary and nonoperating property in *RIVERSIDE* County. On the basis of said assessment and transmittal of said roll, taxes were levied on said property for said fiscal year in the sum of \$220,326 (Exhibit 1) and paid by claimant in full on or about *December 2, 2014* and *April 1, 2015* (Exhibit 2).
3. Claimant is entitled to a refund of a portion of said taxes in the amount of \$55,050, plus appropriate interest, on the grounds that said taxes were erroneously or illegally collected, or illegally assessed or levied, for the following reasons:
 - a. The property tax rate applied to compute claimant's property taxes was in excess of the rate applied in the same year to property in the county assessed by the assessor of *RIVERSIDE* County, in violation of Article XIII, section 19 of

the California Constitution and *ITT World Communications v. City and County of San Francisco*, 37 Cal. 3d 859 (1985).

b. The property tax rate applied to compute claimant's property taxes exceeded the rate allowed by Article XIII A, section 1 of the California Constitution.

4. No refund of said taxes, or any part thereof, has been previously made.

I declare under penalty of perjury that the foregoing is true and correct, and that I am authorized by claimant to make this claim for refund.

Dated: *November 14, 2018* at 208 S Akard St, Dallas, Texas

Name: Gary Hunter

Title: AVP-TAX

Signature:



EXHIBIT 10



COUNTY OF RIVERSIDE
OFFICE OF THE
AUDITOR-CONTROLLER

County Administrative Center
4080 Lemon Street, 11th Floor
P.O. Box 1326
Riverside, CA 92502-1326
(951) 955-3800
Fax (951) 955-3802

ACC | **AUDITOR**
CONTROLLER
COUNTY OF RIVERSIDE

Paul Angulo, CPA, M.A.
County Auditor-Controller

Oscar Valdez
Assistant Auditor-Controller

June 27, 2019

Mr. Gary Hunter
AVP-TAX
AT&T Services, Inc.
208 S. Akard St., 18th Floor
Dallas, TX 75202-4206

AT&T Mobility LLC
1010 Pine St. Room 9E-L-01
St. Louis, MO 63101

RE: Claim for Property Tax Refund
AT&T Mobility LLC
Assessment 606 AT&T Mobility LLC
Tax Year 2014-15

Dear Claimant(s):

On June 25, 2019, the Riverside County Board of Supervisors denied your claim for refund presented under section 100 and section 5096 of the Revenue and Taxation Code. This letter serves as notification of that denial. Pursuant to section 5141 of the Revenue and Taxation Code, you have six months from the date the Board's rejected your claim to commence an action in Superior Court.

Sincerely,
Paul Angulo, CPA, M.A.
Auditor-Controller

By: Oscar Valdez
Assistant Auditor-Controller

Attachments
PA:OV:pe

EXHIBIT 11



COUNTY OF RIVERSIDE
OFFICE OF THE
AUDITOR-CONTROLLER

County Administrative Center
4080 Lemon Street, 11th Floor
P.O. Box 1326
Riverside, CA 92502-1326
(951) 955-3800
Fax (951) 955-3802

ACC | **AUDITOR**
CONTROLLER
COUNTY OF RIVERSIDE

Paul Angulo, CPA, M.A.
County Auditor-Controller

Oscar Valdez
Assistant Auditor-Controller

June 27, 2019

Mr. Gary Hunter
AVP-TAX
AT&T Services, Inc.
208 S. Akard St., 18th Floor
Dallas, TX 75202-4206

Pacific Bell Telephone
1010 Pine St. Room 9E-L-01
St. Louis, MO 63101

RE: Claim for Property Tax Refund
Pacific Bell Telephone
Assessment 279 Pacific Bell
Tax Year 2014-15

Dear Claimant(s):

On June 25, 2019, the Riverside County Board of Supervisors denied your claim for refund presented under section 100 and section 5096 of the Revenue and Taxation Code. This letter serves as notification of that denial. Pursuant to section 5141 of the Revenue and Taxation Code, you have six months from the date the Board's rejected your claim to commence an action in Superior Court.

Sincerely,
Paul Angulo, CPA, M.A.
Auditor-Controller

By: Oscar Valdez
Assistant Auditor-Controller

Attachments
PA:OV:pe

EXHIBIT 12



COUNTY OF RIVERSIDE
OFFICE OF THE
AUDITOR-CONTROLLER

County Administrative Center
4080 Lemon Street, 11th Floor
P.O. Box 1326
Riverside, CA 92502-1326
(951) 955-3800
Fax (951) 955-3802

ACC | **AUDITOR**
CONTROLLER
COUNTY OF RIVERSIDE

Paul Angulo, CPA, M.A.
County Auditor-Controller

Oscar Valdez
Assistant Auditor-Controller

June 27, 2019

Mr. Gary Hunter
AVP-TAX
AT&T Communications
208 S. Akard St., 18th Floor
Dallas, TX 75202-4206

AT&T Communications
1010 Pine St. Room 9E-L-01
St. Louis, MO 63101

RE: Claim for Property Tax Refund
AT&T Communications
Assessment 310 AT&T Communications
Tax Year 2014-15

Dear Claimant(s):

On June 25, 2019, the Riverside County Board of Supervisors denied your claim for refund presented under section 100 and section 5096 of the Revenue and Taxation Code. This letter serves as notification of that denial. Pursuant to section 5141 of the Revenue and Taxation Code, you have six months from the date the Board's rejected your claim to commence an action in Superior Court.

Sincerely,
Paul Angulo, CPA, M.A.
Auditor-Controller

By: Oscar Valdez
Assistant Auditor-Controller

Attachments
PA:OV:pe

EXHIBIT 13



STATE BOARD OF EQUALIZATION
450 N STREET, SACRAMENTO, CALIFORNIA
PO BOX 942879, SACRAMENTO, CALIFORNIA 94279-0082
1-916-323-1094 • FAX 1-916-324-2586
www.boe.ca.gov

TED GAINES
First District, Sacramento

MALIA M. COHEN, CHAIR
Second District, San Francisco

ANTONIO VAZQUEZ, VICE CHAIR
Third District, Santa Monica

MIKE SCHAEFER
Fourth District, San Diego

BETTY T. YEE
State Controller

BRENDA FLEMING
Executive Director

July 25, 2019

Mr. Eric Miethke
Capital Law & Policy Inc.
1215 K Street, Suite 1510
Sacramento, CA 95814

*Re: Exhaustion of Administrative Remedies
Assignment No.: 19-166*

Dear Mr. Miethke,

This is in reply to your letter to Chief Counsel Henry Nanjo, in which you request a legal opinion regarding whether a state-assessed taxpayer must exhaust its administrative remedies by first filing a petition for reassessment with the State Board of Equalization (Board) or an assessment appeal with the county board of equalization or assessment appeals board (county board) prior to filing a claim for refund under Revenue and Taxation Code¹ section 5097 and an action for refund under section 5148,² to pose a Constitutional challenge to the property tax rate applied to a state assessment. For the reasons set forth below, since neither the Board nor a county board has jurisdiction to decide whether the tax rate applied to valuations of state assessed properties set by the Board was proper, no petition for reassessment or assessment appeal needs to be filed to exhaust administrative remedies.

Factual Background

You related the following facts in your letter:

Taxpayers are privately-held public utilities in California. Pursuant to Article XIII, Section 19 of the California Constitution and Section 721 [of the Revenue and Taxation Code], taxpayers' property values are determined by the BOE. The tax rates applied to the value of that property are determined by each individual county pursuant to Section 100.

Taxpayers challenge the tax rate applied by several counties pursuant to Section 100(b) to taxpayers' state-assessed property on the grounds that the rates applied unconstitutionally discriminate against taxpayers in violation of Article XIII, Section 19 of the California Constitution. Taxpayers' claims relate back to tax year 2014. Taxpayers have filed administrative claims for refund under Section 5097 in each county in which the rate applied violates the Constitution. Taxpayers

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

² As explained below, we believe the proper statute under which to file such a refund action is section 5140 and not section 5148.

have not filed any Petitions for Reassessment with the BOE because taxpayers do not challenge the assessment, or value, of their property or the allocation of that value amongst the counties. Nor have taxpayers filed any Applications for Reduced Assessment with local county Assessment Appeals Boards ("AABs") or Boards of Supervisors.

You assert that taxpayers raising this issue are not required to first file a petition for reassessment designated as a claim for refund with the Board, or, in the alternative, to file an assessment appeal with a county board before filing an administrative claim for refund pursuant to Section 5097 and 5097.02.

Law & Analysis

It is well settled that, "In general, a party must exhaust administrative remedies before resorting to the courts. [Citations.] Under this rule, an administrative remedy is exhausted only upon 'termination of all available, nonduplicative administrative review procedures.' [Citations.]" (*Williams & Fickett v. Fresno* (2017) 2 Cal. 5th 1258, 1267-1268 citing *Coachella Valley Mosquito & Vector Control Dist. v. California Public Employment Relations Bd.* (2005) 35 Cal.4th 1072, 1080.) For state-assessed properties, a petition for reassessment to the Board designated as a claim for refund together with payment of the taxes are prerequisites to any tax refund action. (Rev. & Tax Code, § 5148, subs. (e) & (g), *Verizon California v. Board of Equalization* (2014) 230 Cal.App.4th 666, 671, *Sprint Telephony PCS v. Board of Equalization* (2015) 238 Cal.App.4th 871.) For property assessed by the county, "... application of the exhaustion principle means that a taxpayer ordinarily may not file or pursue a court action for a tax refund without first applying to the county board of equalization for assessment reduction under section 1603 and filing an administrative tax refund claim under section 5097." (*Williams & Fickett v. Fresno, supra*, p. 1268, citing *Steinhart v. County of Los Angeles* (2010) 47 Cal.4th 1298, 1308, italics omitted.) These procedures are necessary because,

[u]nder the doctrine of exhaustion of administrative remedies, when an administrative tribunal has been created to adjudicate an issue, the matter must be presented there before any resort is made to the courts. [Citations.] Conversely, where no administrative remedy is provided for the particular issues raised, recourse to the administrative agency is not required before initiation of court action. [Citations.]

(*Andal v. City of Stockton* (2006) 137 Cal.App.4th 86, 91.)

Therefore, if either the Board or the county board offer recourse for state-assessed taxpayers aggrieved by application of an improper tax rate, administrative relief must first be sought in that forum prior to filing a refund action. However, if neither the Board nor the county board offer such administrative recourse, taxpayers may file a refund action without filing a petition for reassessment or assessment appeal.

State Board of Equalization Jurisdiction

California Constitution article XIII, section 19, states in relevant part:

The Board shall annually assess (1) pipelines, flumes, canals, ditches, and aqueducts lying within 2 or more counties and (2) property, except franchises, owned or used by regulated railway, telegraph, or telephone companies, car companies operating on railways in the State, and companies transmitting or selling gas or electricity. This property shall be subject to taxation to the same extent and in the same manner as other property.

Government Code section 15600, subdivision (b)(3) provides that the Board shall have the following duty:

The assessment of pipelines, flumes, canals, ditches, and aqueducts lying within two or more counties and property, except franchises, owned or used by regulated railway, telegraph, or telephone companies, car companies operating on railways in the state, and companies transmitting or selling gas or electricity pursuant to Section 19 of Article XIII of the California Constitution, as well as the equalization of that assessment, and any duty, power, or responsibility conferred by statute on the board in connection with that assessment.

(Emphases added.)

Section 721 states that, "The board shall annually value and assess all of the taxable property within the state that is to be assessed by it pursuant to Section 19 of Article XIII of the Constitution and any legislative authorization thereunder." The valuation is done at the property's fair market value (Rev. & Tax. Code, § 722), and includes both unitary and nonunitary property³ (Rev. & Tax. Code § 723). Such property is known as state-assessed properties. Assessments of state-assessed properties lead to the preparation of a state assessment roll that, upon completion, is transmitted to county and city auditors. (Rev. & Tax. Code, § 722.) The Board must also allocate the assessment of state-assessed properties to the counties in which unitary and operating nonunitary property are located. (Rev. & Tax. Code, § 745.) The roll must show the unitary and nonunitary assessments made by the Board in any county that levied a tax the preceding year. (Rev. & Tax. Code, § 756.) A state assessee may file with the Board a petition for reassessment or a petition to correct an allocation. (Rev. & Tax. Code, §§ 731, 747.) If a petition for reassessment or correction of allocation is granted, the Board will transmit a roll correction to the affected counties. (Rev. & Tax. Code, § 744, subd. (b).)

Section 100 sets forth the method by which values assessed by the Board as well as the revenues derived from those assessments will be allocated, establishing a countywide tax rate area for the value of all unitary and operating nonunitary property assigned to that tax rate area.⁴ Subdivision (b) of section 100 sets forth the computation of the rate applicable to each tax rate area.⁵ The board of supervisors of the county is responsible for fixing tax rates as provided by law. (Rev. & Tax. Code, § 2151.) The auditor then computes the tax. (Rev. & Tax. Code, § 2152.)

³ A state assessee's nonunitary property may also be assessed together as operating nonunitary property. (Rev. & Tax. Code § 723.1.)

⁴ A number of sections contained in the same Article (Article 6) that contains section 100 require specific allocation methods for certain types of properties for certain time periods.

⁵ California Constitution article XIII A and section 93 govern property tax rates.

Government Code section 15600, subdivision (b) provides that the Board's duties shall *only* include the duties listed in that subdivision. Subdivision (b)(3) confers on the Board the duty to assess the values of state-assessed properties, equalize that assessment, and to perform any other duty conferred by statute on the Board in connection with that assessment. Because statutes confer the duty to set tax rates on county officials and not the Board, that duty is not within the scope of the Board's responsibilities. (See *ITT World Communications, Inc. v. City and County of San Francisco* (1985) 37 Cal.3d 859 [explaining that the local taxing authority subjects state-assessed property to taxation at the rate fixed in its jurisdiction, and that the Constitutional requirement that state-assessed property be subject to taxation "to the same extent and in same manner as other property" applies to the taxation of the property, not to its valuation].) Therefore, upon transmittal of the state assessment roll to the county auditor (including any roll corrections), the Board's assessment and equalization duties, and therefore, all the Board's duties conferred by statute, are complete with respect to state-assessed properties for that tax year. For that reason, the Board does not have jurisdiction to hear disputes regarding the tax rate applied to a state-assessed property assessment. It is also, therefore, not the proper party against which a refund action alleging an improper tax rate should be brought.

Section 5148 governs refund actions brought against the Board. It provides:

Notwithstanding Section 5140, an action to recover taxes levied on state-assessed property *arising out of a dispute as to an assessment made pursuant to Section 721*, including a dispute as to valuation, assessment ratio, or allocation of value for assessment purposes, shall be brought under this section.

(Emphasis added.)

As cited above, section 721 provides that the board shall value and assess all of the state-assessed taxable property in the state. It does not authorize the setting of tax rates. Therefore, a refund action disputing the appropriate rate of tax to apply to a state-assessment is not properly brought under section 5148 since it is not a "dispute as to an assessment made pursuant to section 721."⁶ Instead, the statutory authorization for such a refund action is section 5140.

County Board Jurisdiction

Sections 401 and 405 require each county assessor to assess all taxable property in the county at its full value.⁷ The assessor is then required to list all such property on an assessment roll and transmit that roll to the county auditor on or before July 1. (Rev. & Tax. Code, §§ 616, 617.) The county auditor is then required to apply a tax rate set by the county board of supervisors to the assessed values on the roll to compute the amount of tax due from taxpayers. (Rev. & Tax. Code, §§ 2151, 2152.) The roll (now with tax amounts calculated by the auditor added – sometimes referred to as the "extended roll") is then transmitted to the county tax collector by the fourth Monday in September for the collection of taxes. (Rev. & Tax. Code, §§ 2601, 2602.)

⁶ Indeed, if a refund action was brought under section 5148 because it arose "out of a dispute as to an assessment made pursuant to Section 721," taxpayers would then be required to first file a petition for reassessment with the Board.

⁷ Full cash value is defined for Proposition 13 at section 110.1.

Once the roll is complete, the assessor is also required to give notice to taxpayers of their individual assessments. (Rev. & Tax. Code, § 619.) Taxpayers wishing to challenge their assessment must file an assessment appeal application with the county board generally between July 2 and September 15. (Rev. & Tax. Code, § 1603.) This is because article XIII of the California Constitution specifies that it is the county board that must “equalize the *values* of all property on the local assessment roll by *adjusting individual assessments*.” (Cal. Const., art. XIII, § 16, emphasis added.) Similarly, section 1610.8 provides that:

The county board shall equalize *the assessment* of property on the local roll by determining the full value of an individual property, by assessing any taxable property that has escaped assessment, correcting the amount, number, quantity, or description of property on the local roll, canceling improper assessments, and by reducing or increasing an individual assessment, as provided in this section.

(Rev. & Tax. Code, § 1610.8, emphasis added.)

Accordingly, “while sitting as a board of equalization, the county board of supervisors ... exercis[es] quasi-judicial powers delegated to the agency by the Constitution” (*Westlake Farms, Inc. v. County of Kings* (1974) 39 Cal.App.3d 179, 185) with “special expertise in property valuation.” (*Westinghouse Elec. Corp. v. County of Los Angeles* (1974) 42 Cal.App.3d 32, 42, fn. 6.)

The word “assessment” generally means a “determination of the rate or amount of something.” (See Black’s Law Dict. (11th ed. 2019).) As used in article XIII, section 16 of the California Constitution, and sections 1603 and 1610.8, it can only refer to the determination of a property’s value. This is made clear by the statutory scheme for property taxation and appeal outlined above. The assessor’s duty is to value property within the county (Rev. & Tax. Code, §§ 401 & 405), place those values on an assessment roll and transmit that roll to the county auditor for calculation of the actual tax. (Rev. & Tax. Code, §§ 616, 617.) Section 602 lists the information assessors are required to place on the local roll prior to its transmittal to the county auditor. It does not include the property tax rate or the property tax due. Indeed, it could not since the tax due is calculated by the county auditor by applying a tax rate set by the board of supervisors. (See Rev. & Tax. Code, §§ 617, 2151, and 2152.) Perhaps most telling, a taxpayer wishing to appeal an assessment must do so, generally, between July 2 and September 15. (Rev. & Tax. Code, § 1603.) However, an auditor’s deadline to calculate the tax on the extended roll is not until the fourth Monday in September, which is *after* the due date of an assessment appeal application. Thus, if “assessment” included the actual tax and tax rate applied to a valuation, a taxpayer may not know what tax and rate to appeal before the deadline to file the appeal.

Therefore, the Constitution and statutes provide the county board as a means by which to pursue an administrative remedy by taxpayers seeking to lower their property *valuation*, and not a reduction of their property *tax rate*. The county board has no constitutional or statutory

authority or “special expertise” to set the tax rate.⁸ This fact is recognized by Property Tax Rule⁹ 302, which sets forth the functions of the county board. Rule 302, subdivision (a) lists six functions of the county board. All six functions are related to the valuation of property or penalty assessments related to the valuation of property.

Conclusion

As explained above, neither the Board nor the county board has jurisdiction to hear appeals of the tax rate applied to state-assessed property tax assessments. Therefore, the legislature has not authorized either body to provide an administrative remedy for such appeals, and no such administrative appeal needs to be filed prior to a state-assessed taxpayer pursuing a claim for refund with the county and filing a refund action challenging the tax rate applied to a state property tax assessment.

The views expressed in this letter are only advisory in nature. They represent the analysis of the legal staff of the Board based on present law and the facts set forth herein, and are not binding on any person or public entity. Should you have any additional questions, please feel free to contact me.

Sincerely,



Richard S. Moon
Tax Counsel IV

RM:ma

J:/Prop/Precedent/Jurisdiction/2019/19-166.docx

cc: Ms. Brenda Fleming (MIC:73)
Mr. Henry Nanjo (MIC:121)
Mr. David Yeung (MIC:64)
Ms. Lisa Thompson (MIC:120)

⁸ It bears noting that the court in *County of San Diego v. Lafayette Steel, Co* (1985) 164 Cal.App.3d 690, states that the phrase “reduction in an assessment,” found in section 1603, necessarily contemplates a reduction in a property’s value and a reduction in the tax rate applicable to taxable property. The issue in that case, however, was not the application of the correct *rate of tax* but rather the correct *assessment ratio*. Thus, that case stands for the proposition that the assessment ratio was determinable by the county board.

⁹ All subsequent references to “Rules” are to the Property Tax Rules promulgated under title 18 of the California Code of Regulations.