LITIGATION ROSTER

PROPERTY TAX

MARCH 2013

Property Tax
MARCH 2013

NEW CASES

Case Name	Court/Case Number
Cruz, Lily Escoto	Alameda County Superior Court Case No. RG13670500

CLOSED CASES

Case Name	Court/Case Number
None	

Please refer to the case roster for more detail regarding new and closed cases

PROPERTY TAX

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BENNETT, STEPHEN H. v. California State Board of Equalization
Court of Appeal, Third Appellate District, Case No. C070263
Sacramento Superior Court Case No. 34-2011-80000911

Filed – 07/08/11

Plaintiff's Counsel
Stephen Bennett
In Pro Per

BOE's Counsel
Jane O'Donnell
BOE Attorney
Wendy Vierra

Issue(s): Whether BOE violated Government Code section 15606(h), and 15608 for failing to bring judicial action against assessors for retroactively applying Part 0.5 of the California Revenue and Taxation Code and improperly instructing assessors to apply Part 0.5 of the CA Revenue and Taxation Code retroactively.

Audit/Tax Period: 2004-2008 Amount: Unspecified

Status: Plaintiff filed a Verified Petition for Writ of Mandate on July 8, 2011. BOE was properly served on August 10, 2011. BOE filed its Demurrer to Petitioner's Petition for Writ of Mandate on September 9, 2011. A hearing is set for November 18, 2011 on the petitioner's Motion to Disqualify the Attorney General from representing the BOE and BOE's Demurrer. At the December 9, 2011 hearing, the Court denied petitioner's Motion to Disqualify the Attorney General. The Court also denied the petitioners' Request for Clarification of the ruling on December 21, 2011. On January 18, 2012, the Court sustained BOE's Demurrer to Petitioner's Petition for Writ of Mandate and denied Petitioner's Motion to Disqualify the Attorney General's Office.

Court of Appeal: Petitioner filed a Notice of Appeal of these order on January 25, 2012. Appellant filed his opening brief on June 16, 2012. BOE's response brief was filed on July 12, 2012. Appellant's response was filed on September 11, 2012. Oral arguments were held on November 13, 2012. On February 5, 2013, the Appellate Court affirmed the trial court's judgment in favor of BOE, and ruled that Appellant shall pay BOE's costs on appeal.

CALIFORNIA STATE TEACHERS' RETIREMENT SYSTEM, et al. v. County of Los Angeles
Court of Appeal, Second Appellate District: B225245
Los Angeles County Superior Court: BC389742
(Amicus Curiae Brief)

Plaintiff's Counsel
Kevin J. Moore
Moore & Associates

BOE's Attorney
Kiren Chohan

Issue(s): This appeal involves the assessment of a taxable possessory interest, a leasehold, in tax exempt publicly owned real property. Whether Government Code section 7510, subdivision (b)(1) fails to tax a lessee's taxable possessory interest in accordance with the possessory interest's fair market value so as to render the statute's valuation methodology unconstitutional.

Status: The superior court granted defendant LA County's motion for summary judgment, and plaintiff CalSTRS has appealed.
Court of Appeal: The Court of Appeal has asked the BOE to submit an amicus brief. On July 30, 2012, the BOE filed its application to file an amicus curiae brief and its brief in support of Appellant California State Teachers' Retirement System. Oral argument was held on January 8, 2013.

CRUZ, LILY ESCOTO & HEIRS OF NARCISCO v. SBE, et al.
Alameda County Superior Court: RG13670500 — Filed – 03/08/2013

Plaintiff's Counsel
Lily Escoto Cruz
In Pro Per

BOE's Counsel
Anne Michelle Burr
BOE Attorney
Kiren Chohan

Issue(s): The issue in this case is whether the BOE and the Alameda County Property Tax Collectors erred in determining the proper assessed value of property owned by the heirs of Narcisco Escoto. Plaintiffs are seeking a reassessment and reduction in the value of locally assessed property.

Audit/Tax Period: None — Amount: $40,000.00

Status: The BOE has not been properly served and will take no action until served.

ELK HILLS POWER, LLC v. California State Board of Equalization, et al.
San Diego Superior Court Case No. 37-2008-00097074-CU-MC-CTL — Filed – 12/01/08
Court of Appeal, Fourth Appellate District Case No. D056943
California Supreme Court Case No. S194121

Plaintiff's Counsel
Peter W. Michaels
Law Offices of Peter Michaels

BOE's Counsel
Tim Nader
BOE Attorney
Kiren Chohan

Issue(s): Whether BOE properly included the assumed costs of emissions reductions credits (ERCs) when valuing plaintiff's property under Revenue and Taxation Code Section 110.

Audit/Tax Period: 2004-2008 — Amount: Unspecified

Status: The trial court ordered summary judgment in favor of BOE. The Court of Appeal issued a published decision on May 10, 2011, affirming the trial court judgment and awarding BOE its costs on appeal. Elk Hills filed a Petition for Rehearing on May 25, 2011. On June 7, 2011, the Court denied Elk Hills' Petition for Rehearing. On June 20, 2011, Elk Hills Power filed a Petition for Review with the California Supreme Court. On July 7, 2011, CalTax submitted a Request for Depublication of the Court of Appeal Opinion with the California Supreme Court. BOE's Answer to Elk Hills' Petition for Review was filed July 11, 2011. BOE's Opposition to CalTax's Request for Depublication was filed on July 18, 2011. The case is fully briefed.

Supreme Court: The Supreme Court of California accepted the petition for review filed by Elk Hills Power, LLC on August 24, 2011. The case is currently being briefed in the Supreme Court.

NONPROFITS INSURANCE ALLIANCE OF CALIFORNIA; ALLIANCE MEMBER SERVICES, INC. v. County of Santa Cruz; State Board of Equalization, DOES 1-10

Santa Cruz County Superior Court: CV173140

Filed – 5/23/2012

Plaintiff's Counsel
Peter O. Glaessner
Lombardi, Loper & Conant

BOE's Counsel
David Lew
BOE Attorney
Crystal Yu

Issue(s): The issue in this case is whether plaintiffs are entitled to Welfare Organizational Exemptions and Organizational Clearance Certificates (OCC) under Revenue and Taxation Code section 214(a) and Revenue and Taxation Code section 254.6. Plaintiffs are seeking a refund of property taxes from the county, and from BOE, declaratory relief and an order compelling issuance of the OCCs.

Audit/Tax Period:

Amount: $410,673.38

Status: Nonprofits Insurance Alliance of California served the BOE with a First Amended Complaint to Recover Taxes Levied Against Tax-Exempt Welfare Organizations; Declaratory Relief and to Compel Issuance of Organizational Clearance Certificates Per Revenue and Taxation Code § 254.6. A hearing was held on August 30, 2012. At the Case Management Conference on September 26, 2012, the court set a trial date for June 24, 2013. Discovery continues.

SANTA BARBARA, Assessor for the County of v. Assessment Appeals Board No. 1

California Supreme Court, S205876
Court of Appeal, Second Appellate District: B229656
Santa Barbara County Superior Court: 01244457
(Amicus Curiae Brief)

BOE's Counsel
Stephen Lew
BOE Attorney
Kiren Chohan

Issue(s): The primary issue in the case is the proper valuation of transfers of individual ownership interests in resident-owned mobile home parks. (Revenue and Taxation Code section 62.1) On April 26, 2011, the Board approved the filing of an amicus brief in this case to support the appellant Santa Barbara County Assessor's position for the purpose of uniformity and to support those assessors that are following BOE's guidance regarding this issue.

Audit/Tax Period: None

Amount: Unspecified

Status: Pending. Appellant County Assessor for Santa Barbara filed Reply Brief on September 29, 2011. The BOE's application to file an amicus curiae brief in support of Appellant County of Santa Barbara was granted by the Court of Appeal on October 17, 2011. Oral argument was held on February 8, 2012. On May 16, 2012, the Court issued a published decision upholding the trial court's decision in favor of Respondents. Appellant's Petition for Rehearing, filed on May 30, 2012, was granted by the Court on June 13, 2012. On August 30, 2012, the Court affirmed the judgment of its decision in favor of Assessment Appeals Board and Rancho Goleta Lakeside Mobileers, Inc., et al., and against appellant Santa Barbara County Assessor.

Supreme Court: Case is being briefed in the Supreme Court.

SPRINT TELEPHONY PCS, L.P. v. State Board of Equalization, et al.

San Francisco Superior Court Case No. CGC-11-511398 — Filed – 06/01/11

Court of Appeal, First Appellate District, Case No. A134533

Plaintiff's Counsel
Richard N. Wiley
Law Offices of Richard Wiley

BOE's Counsel
David Lew

BOE Attorney
Kiren Chohan

Issue(s): The issue in this case is whether plaintiff's 2008 Board-adopted unitary value of $2,039,700,000 is overstated. (California Constitution, Art. XIII, section 19); (Revenue and Taxation Code section 5148).

Audit/Tax Period: 2008 — Amount: $9,000,000.00

Status: Sprint PCS served the Board with a First Amended Verified Complaint dated June 23, 2011. Hearing on Defendant-Counties Demurrers took place on October 20, 2011. On December 27, 2011, the Court overruled each of the three demurrers filed by the county defendants. On January 17, 2012, the Court granted the Counties Ex Parte Application for Stay of Proceedings if the Counties file a Writ of Mandate with Court of Appeal which was filed on February 10, 2012.

Court of Appeal: Upon receipt of Sprint's filing it Opposition to the Petition, the Court had directed the county defendants to file a reply to Sprint's Opposition by March 13, 2012. County Defendant's Petition was denied. Case is returning to the trial court.

Trial Court: Trial is set for October 7, 2013.

JOAN THAYER, IN HER CAPACITY AS MARIN COUNTY ASSESSOR v. Assessment Appeals Board No. 1

(Amicus Curiae Brief)

Court of Appeal, First Appellate District: A134340 — Filed – 5/30/2012

BOE's Counsel
None

BOE Attorney
Kiren Chohan

Issue(s): This issue involves whether an "other than original transferor" can avoid a change in ownership when he severs his joint tenancy in favor of a tenancy in common. The superior court found the severance in question was a non-assessable event pursuant to Revenue and Taxation Code section 62(a). The superior court's interpretation is inconsistent with the BOE's longstanding advice regarding the proper assessment of joint tenancies. The Marin County Assessor filed an appeal and has asked the BOE to file an amicus brief in support of its position.

Audit/Tax Period: None — Amount: Unspecified

Status: Court of Appeal: BOE will file an amicus brief in support of Appellant Marin County Assessor. The On August 22, 2012, the Court granted BOE's application to file its amicus curiae brief (filed on August 21, 2012) in support of Appellant Marin County Assessor.

VERIZON CALIFORNIA INC. v. California State Board of Equalization

Sacramento Superior Court Case No. 34-2011-00116029 — Filed – 12/21/11

Plaintiff's Counsel
Carla Christofferson
O'Melveny & Myers LLP

BOE's Counsel
Jill Bowers
BOE Attorney
Kiren Chohan

Issue(s): The issue in this case is whether plaintiff's 2007 Board-adopted unitary value of $3,480,700,000 is overstated. (California Constitution, Art. XIII, section 19); (Revenue and Taxation Code section 5148).

Audit/Tax Period: 2007 — Amount: $5,900,000.00

Status: Verizon served BOE with a Verified Complaint for Refund of State Assessed Property Taxes dated December 22, 2011. BOE's response to Verizon's First Amended complaint was due and filed October 23, 2012. A hearing was held on March 19, 2013.

WESTERN STATES PETROLEUM ASSOCIATION v. California State Board of Equalization

Los Angeles County Superior Court Case No. BC403167 — Filed – 12/03/08
Court of Appeal, Second Appellate District No. B225932
California Supreme Court, Case No. S200475

Plaintiff's Counsel
Cris K. O'Neall
Cahill, Davis & O'Neall, LLP

BOE's Counsel
Brian Wesley
BOE Attorney
Kiren Chohan

Issue(s): Whether BOE's Property Tax Rule 474 is valid (Government Code section 11340 et seq.; Revenue and Taxation Code section 51; Government Code section 15606; Title 18 California Code of Regulations, sections 461 and 324; California Constitution Article III, section 1; and Article XIIIA sections 1,2, and 3.)

Audit/Tax Period: None — Amount: Unspecified

Status: On March 29, 2010, the court issued its Order on Submitted Matter denying SBE's Motion for Summary Judgment and granting summary judgment to WSPA. Judgment in favor of plaintiff was entered April 27, 2010. BOE's Appellant's Reply Brief was filed on August 12, 2011. The case has been fully briefed, and oral argument was held on November 21, 2011. On January 19, 2012, the Court of Appeal declared Rule 474 to be invalid.

Supreme Court: BOE's Petition for Review with the Supreme Court was filed on February 28, 2012. On May 16, 2012, the Supreme Court granted BOE's Petition for Review of the Court of Appeal decision. The case is currently being briefed in the Supreme Court. BOE filed its reply brief on January 22, 2013. Case is now fully briefed. The Court has set May 9, 2013 in San Francisco for oral argument on this matter.

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NONE

DISCLAIMER

Every attempt has been made to ensure the information contained herein is valid and accurate at the time of publication. However, the tax laws are complex and subject to change. If there is a conflict between the law and the information found, decisions will be made based on the law.

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