LITIGATION ROSTER

PROPERTY TAX

MARCH 2014

Property Tax
MARCH 2014

NEW CASES

Case Name	Court/Case Number
COAST TERMINALS, LLC v. California State Board of Equalization	Los Angeles County Superior Court Case No. BC532872

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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RICHARD BENSON *(formerly Joan Thayer)***, IN HIS CAPACITY AS MARIN COUNTY ASSESSOR v. Assessment Appeals Board No. 1**
(Amicus Curiae Brief)
Court of Appeal, First Appellate District: A134340
CA Supreme Court: S214329

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 asked the BOE to file an amicus brief in support of its position.

Audit/Tax Period: None

Amount: Unspecified

Status: Court of Appeal: 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. On September 26, 2013, the Court of Appeal reversed the trial court decision in favor of the taxpayer and issued an opinion in favor of the Marin County Assessor.

CA Supreme Court: On October 29, 2013, Petitioners filed a request for judicial notice in support of their petition for review in the CA Supreme Court. On November 18, 2013, Plaintiffs filed an answer to the petition for review. On November 26, 2013, Respondent filed a reply to the answer. On December 11, 2013, the petition for review was denied.

EHP GLENDALE, LLC, et al. v. County of Los Angeles
(Amicus Curiae Brief)
CA Supreme Court: B244494
Court of Appeal, Second Appellate District: BC385925

Filed – 4/1/2013
BOE's Counsel
Marta Smith
BOE Attorney
Kiren Chohan

Issue(s): Clarification of the *Assessors' Handbook* section 502 guidance on application of the income approach to value in local property tax cases where non-taxable assets have increased the property's gross operating income.

Audit/Tax Period: None

Amount: Unspecified

Status: Court of Appeal: BOE filed its Application to File an Amicus Brief together with the Amicus Brief in support of neither party on May 16, 2013. Appellant filed an opposition to BOE's Application to File an Amicus Brief on May 29, 2013. Oral argument was held June 27, 2013. The court granted BOE's motion to file an Application to file an Amicus Brief on July 10, 2013. BOE filed its Amicus Brief on the same day. On September 18, 2013, the Court of Appeal affirmed the trial court judgment in favor of the Los Angeles County Assessor, finding that the Assessor properly valued the hotel property using the income method consistent with Property Tax Rule 8, and relevant case law.

CA Supreme Court: On October 29, 2013, Plaintiff filed a petition for review in the CA Supreme Court. On November 8, 2013, Respondents filed an answer to the petition for review. Plaintiffs filed a reply to the answer on November 19, 2013. On December 18, 2013, the petition for review was denied. That same day, the Court of Appeal opinion was decertified.

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: Trial Court: 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.

CA Supreme Court: The Supreme Court of California accepted the petition for review filed by Elk Hills Power, LLC on August 24, 2011. The case was argued before the California Supreme Court on May 29, 2013. The California Supreme Court reversed the Court of Appeal's judgment on August 12, 2013, stating that the Court of Appeal erred in affirming the trial court's granting of BOE and the county's summary judgment motion. The Supreme Court remanded the case to the Court of Appeal for further proceedings consistent with its decision. The California Supreme Court issued the Remittitur on September 12, 2013.

Court of Appeal: The Court of Appeal reversed its judgment and directed the trial court to enter a new order denying the summary judgment motion and conduct further proceedings consistent with the Supreme Court decision. The court awarded Elk Hills costs on appeal. On February 21, 2014, the trial court instructed the parties to submit briefs on their proposed judgment and scheduled a hearing date for May 9, 2014.

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. On November 22, 2013, BOE filed a Motion for Summary Judgment.

On February 4, 2014, Plaintiffs filed their Opposition to the BOE's Motion for Summary Judgment and supporting documents. On February 27, 2014, the BOE filed its Reply Brief in Support of its Motion for Summary Judgment. On March 4, 2014, the court denied BOE's Motion for Summary Judgment.

PLAINS WEST COAST TERMINALS, LLC v. California State Board of Equalization, et al.

Los Angeles County Superior Court: BC532872

Filed – 3/06/2014

Plaintiff's Counsel
Rodi, Pollock, Pettker, Galbraith
C. Stephen Davis, Andrew W. Bodeau

BOE's Counsel
Lisa Chao
BOE Attorney
Crystal Yu

Issue(s): Plaintiff alleges that for the tax years of 2009-2010, 2010-2011, and 2012-2013, the BOE's assessments of Plaintiff's distribution and storage system, which provides crude and black oil tankage services and connections to refineries and other customers around Southern California, exceed its fair market value.

Audit/Tax Period: None Amount: Unspecified

Status: On March 6, 2014, BOE was served with a Summons and Verified Complaint for Refund of State Assessed Property Taxes.

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: Court of Appeal: 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.

CA Supreme Court: BOE's Application to File an Amicus Curiae Brief was filed on June 6, 2013. The Supreme Court granted BOE's Application to File an Amicus Curiae Brief and Amicus Curiae Brief, in support of Appellant Santa Barbara County Assessor, on June 25, 2013. The case was argued and submitted on November 6, 2013. On December 13, 2013, the Court ordered this case be retitled to *Joseph E. Holland, as Assessor, etc., v. Assessment Appeals Board. No. 1, Defendant and Respondent; Rancho Goleta Lakeside Mobileers, Inc., et al., Real Parties in Interest and Respondents.* The Supreme Court of California issued its decision on January 23, 2014, reversing the Court of Appeal decision.

SPRINT TELEPHONY PCS, L.P. v. State Board of Equalization, et al.
San Francisco Superior Court Case No. CGC-11-511398
Court of Appeal, First Appellate District, Case No. A134533

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

Filed – 06/01/11
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 its Opposition to the Petition, the Court directed the county defendants to file a reply to Sprint's Opposition by March 13, 2012. County Defendant's Petition was denied. Case was returned to the trial court.

Trial Court: On September 9, 2013, the Court issued a Minute Order requiring both parties to submit supplemental briefing by September 20, 2013. The DOJ, on behalf of the BOE filed its supplemental brief in support of BOE's motion for summary judgment, or in the alternative, motion for summary adjudication on September 20, 2013. On October 1, 2013, the Superior Court granted BOE's Motion for Summary Judgment finding that Plaintiffs failed to exhaust administrative remedies because they failed to file a petition that also constituted a claim for refund as required by the statute. On October 15, 2013, the Court ordered that the Defendants recover from Plaintiffs reasonable costs of suit in an amount to be determined. Notice of Entry of Judgment was filed on October 16, 2013. On November 1, 2013, the Defendants filed Memorandum of Costs and Disbursements. Defendants filed an additional Memorandum of Costs and Disbursements on November 4, 2013. The mature date for both filings was November 25, 2013.

Court of Appeal: Plaintiffs filed notice of appeal on December 10, 2013. The Plaintiffs filed a request for clerk's/reporter's transcript on December 20, 2013. Clerk's notice of filing of notice of appeal was filed on the same date. Plaintiffs filed a notice of appeal on December 24, 2013.

VERIZON CALIFORNIA INC. v. California State Board of Equalization
Sacramento Superior Court Case No. 34-2011-00116029
Court of Appeal, Third Appellate District Case No. C074179

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 filed October 23, 2012. BOE filed a Motion to Strike and Demurrer on October 23, 2012. The Demurrer was based on Verizon's failure to name the remaining 29 counties in which it held unitary property as of the 2007 lien date as named defendants in this action that was brought against the BOE and 9-named defendant counties seeking a reassessment of its 2007 BOE-adopted unitary value.

Verizon filed its Oppositions to BOE's Demurrer and Motion to Strike on March 6, 2013. On March 12, 2013, BOE filed its response to Verizon's Opposition to BOE's Demurrer and a

Motion to Strike Attorney Fees. On April 16, 2013, the Court issued a final ruling on the Demurrer in favor of the BOE finding that all counties within which a state assessee owns property are indispensable parties that must be named defendants in a section 5148 refund action. Verizon filed a Motion for Reconsideration on May 1, 2013. BOE's response was filed on May 20, 2013. A hearing on Verizon's Motion for Reconsideration was scheduled for June 3, 2013. Verizon's motion for consolidation of its cases was denied on May 29, 2013.

Court of Appeal: Verizon filed an appeal in the Court of Appeal, Third Appellate District on June 28, 2013. BOE filed its response on August 2, 2013. BOE filed its Reply Brief in Support of the Demurrer, Reply Brief in Support of the BOE's Motion to Strike Attorneys' Fees, and Supplemental Request for Judicial Notice in Verizon's 2008 refund action. On December 13, 2013, Plaintiffs filed their opening brief. On February 11, 2014, BOE filed its Respondent's Brief. All other respondents filed a joinder on February 20, 2014.

Appellant Verizon filed its Reply Brief and Request for Judicial notice on March 4, 2014. Respondent BOE filed its Opposition to Verizon's Request for Judicial Notice on March 18, 2014.

VERIZON CALIFORNIA INC. (II) v. California State Board of Equalization

Sacramento Superior Court Case No. 34-2013-00138191	Filed – 4/8/2013
	BOE's Counsel
Plaintiff's Counsel	Serajul Ali
Carla Christofferson	*BOE Attorney*
O'Melveny & Myers LLP	Kiren Chohan

Issue(s): The issue in this case is whether BOE's 2008 Board-adopted unitary value for plaintiff's state-assessed property in the amount of $3,595,900,000.00 is overstated, and should be reassessed. (California Constitution, Art. XIII, section 19); (Revenue and Taxation Code section 5148).

Audit/Tax Period: 2008 Amount: $5,900,000.00

Status: BOE's responsive pleading was filed on May 29, 2013. BOE filed an amended notice of demurrer and motion to strike portions of Plaintiff's complaint on October 13, 2013. The Court issued its tentative rulings on the BOE's Motion to Strike Verizon's prayer for attorneys' fees and Demurrer to Verizon's Complaint on November 25, 2013. The Court granted the BOE's motion to strike based upon statutory interpretation, but denied the demurrer. On December 10, 2013, the DOJ on behalf of the BOE filed an answer in response to Verizon's complaint. The 38 Defendant-Counties also filed a joint answer in response to the complaint. On February 11, 2014, BOE filed its Respondent's Brief. All other respondents filed a joinder on February 20, 2014.

VERIZON CALIFORNIA INC. (III) v. California State Board of Equalization

Sacramento Superior Court Case No. 34-2014-00157245	Filed – 1/10/2014
	BOE's Counsel
Plaintiff's Counsel	Serajul Ali/R. Asperger
Carla Christofferson	*BOE Attorney*
O'Melveny & Myers LLP	Kiren Chohan

Issue(s): The litigation arises out of plaintiff's contention that the 2009-2010 Board-adopted unitary value of plaintiff's state-assessed property is excessive; and, thus, plaintiff is entitled to a refund of property tax it overpaid for the 2009-2010 tax year.

Audit/Tax Period: 2009-2010 Amount: Unknown

Status: BOE's Brief was filed on February 11, 2014. BOE filed its Answer to the Complaint and Motion to Strike Attorney's Fees from Complaint on March 3, 2014. On March 18, 2014, the county Defendants filed their Answer to the Complaint, and Motion to Strike Attorney's Fees from Complaint. On March 26, 2014, the BOE filed its reply to Verizon's Opposition to BOE's Motion to Strike Attorneys' Fees from Complaint.

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CLOSED CASES

LITIGATION ROSTER

MARCH 2014

NONE

DISCLAIMER

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