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No. 2021/024

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TO COUNTY ASSESSORS:

2020 LITIGATION

This letter summarizes court cases involving property tax issues that were decided in 2020 by California's Courts of Appeal.

Chinese Theatres, LLC v. County of Los Angeles (2020) 59 Cal.App.5th 484

The taxpayer brought an action against the county seeking a property tax refund. After judgment for the taxpayer and remand to the county assessment appeals board (AAB) to reduce the assessed value of taxpayer's real property and to correct the tax roll, the trial court awarded attorney fees to the taxpayer under Revenue and Taxation Code¹ section 1611.6, which awards attorney's fees for when the AAB either fails to make requested findings under section 1611.5 (governs requests for written findings of fact of the county board), or a court concludes that the AAB's findings are so deficient that it remands the matter with directions for the AAB to make findings that fairly disclose its determination on the point at issue and include a statement on the methods used in appraising the property. Trial court reasoned that its judgment implied that the AAB failed to make sufficient findings. Appellate court reversed and held that to be awarded attorney's fees, section 1611.6 explicitly requires that one of two specific conditions apply. Since the AAB had made sufficient findings, even though they were not the same as the trial court, neither of the conditions occurred and attorney fees should not have been awarded.

Church v. San Mateo County Assessment Appeals Board (2020) 52 Cal.App.5th 310

The fair market value of the machinery and equipment on which property tax is imposed is determined with reference to either the cost of equipment purchased in a finished state or, if the equipment is not purchased in a finished state, costs incurred to bring the equipment to a finished state, including the cost of labor and materials plus certain additional costs such as the costs of actual or implied financing, debugging, and engineering. Based on substantial evidence, the AAB determined that taxpayer purchased all of the machinery and equipment in question in a finished state, and that the assembly of these pieces of equipment into a production line did not render the equipment "self-constructed property," justifying inclusion of the additional costs in determining fair market value of the equipment. The appellate court held that the trial court should have valued the full cost of each piece of equipment by applying the standard found in the Assessors' Handbook, rather than adopting a standard for determining when equipment is in a

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

finished state for which there was no justification. In addition, the criteria for capitalization of expenses under accounting rules are not determinative of treatment for property taxation.

Herpel v. County of Riverside (2020) 45 Cal.App.5th 96

Lease and possessory interest holders in land owned in trust by the federal government for an Indian tribe or its members brought a class action suit against the county, alleging that the county's possessory interest tax was preempted by federal law. Court of Appeal held that application of possessory interest tax did not violate federal law; leasing regulation providing that "[s]ubject only to applicable Federal law, the leasehold or possessory interest is not subject to any fee, tax, assessment, levy, or other charge imposed by any State or political subdivision of a State" did not preempt possessory interest tax; and the section of the Indian Reorganization Act of 1934 providing that "any lands or rights acquired pursuant to this Act" were to be exempt from state and local taxation did not apply.

HGST, Inc. v. County of Santa Clara (2020) 45 Cal.App.5th 934

The taxpayer contended that the AAB and trial court both erred by not applying the "purchase price presumption" under section 110(b). Since the taxpayer did not provide a change in ownership statement, the purchase price presumption could not be applied, pursuant to section 110(c), despite the provision of the underlying information in another manner. Additionally, appellate court held that the mere issuance of an escape assessment did not necessarily imply that the taxpayer failed to report its property accurately and could not solely be considered substantial evidence to support the imposition of interest under section 531.4.

Los Angeles Leadership Academy, Inc. v. Prang (2020) 46 Cal.App.5th 270

The California Constitution expressly exempts public schools from having to pay taxes, and the courts have found public schools are impliedly exempt from having to pay special assessments. However, there is no such thing as an implied exemption from taxation. Appellate court held that a charter school's property was not exempt from property taxation, as there is no legal support for treating charter schools as school districts for taxation purposes, nor was it impliedly exempted from special assessments.

Manson Construction Co. v. County of Contra Costa (2020) 56 Cal.App.5th 1079

The taxpayer appealed the trial court's determination that its marine vessels, which carried dredged materials from harbors to disposal sites, were not "engaged in the transportation of freight" within the meaning of the Vessel Use Exemption.² The appellate court affirmed and cited existing case law that provided that the phrase, "engaged in the transportation of freight or passengers," should not be interpreted to mean any vessel that carries any property or persons, but rather that such vessels were hired to transport cargo or passengers. Since taxpayer could not show that the dredged materials had an owner or could be considered goods, appellate court determined that the vessels were not engaged in the transportation of freight within the meaning of the exemption.

² California Constitution, article XIII, section 3, subdivision (I).

Phillis v. County of Humboldt (2020) 59 Cal.App.5th 432

The taxpayers brought action for a refund of property taxes, claiming that their property was obtained in an open market transaction and that its sale price should have been the taxable value pursuant to section 110(b). Trial court entered judgment for the county. On appeal, appellate court affirmed, stating that "a foreclosure sale is by nature not an open market transaction supporting application of the section 110 purchase price presumption."

Prang v. Los Angeles County Assessment Appeals Board No. 2 (2020) 54 Cal.App.5th 1

The County Assessor petitioned for a writ of administrative mandate challenging AAB's ruling that the Assessor was bound by a four-year limitations period when determining escape assessments for a change in ownership of a legal entity that owned real property. The legal entity recorded a Certificate of Merger with the county recorder, but did not file a change in ownership statement with the State Board of Equalization. Trial court overturned the AAB's ruling and the taxpayer appealed. Appellate court affirmed trial court and held that if taxpayer who acquired a legal entity recorded a document with less than all of the information required by section 480.1, then the filing requirement was not satisfied and the Assessor may levy escape assessments back to the year of the change in ownership pursuant to section 532(b)(3).

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

DY:gs