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No. 2016/064

December 30, 2016

TO COUNTY ASSESSORS:

### 2015 LITIGATION

This letter summarizes court cases involving property tax issues that were decided in 2015 by one of California's Courts of Appeal.

#### ***Ashlan Park Center LLC v. Vicki Crow (2015) 233 Cal.App.4th 1274***

A property owner is not entitled to relief from penalties for delinquent taxes under Revenue and Taxation Code section 4985.2(a) based on the previous owners' alleged inability to pay taxes on shopping center property due to the economic recession, because such hardship was not due to reasonable cause and circumstances beyond the taxpayer's control. Section 4985.2(a) was not intended as a broad-ranging remedy for a particular taxpayer's adverse financial situation or for a general economic recession.

#### ***Frank Cafferkey et al. v. City and County of San Francisco (2015) 236 Cal.App.4th 858***

The appellate court held that taxpayers are not entitled to a property tax refund when taxes are not paid for a lot that appears only on the assessor's map, and is clearly identifiable but does not correspond to the parcel map because this distinction is irrelevant and does not render the tax erroneously and illegally collected under Revenue and Taxation Code section 5096(b). Because the assessor split the base year value of the taxpayers' real property between the lots shown on the assessor's map, the creation of the lot that did not correspond with the parcel map was not a clerical error under Revenue and Taxation Code section 51.5(f)(2) but reflected the base year value intended by the assessor.

#### ***Dyanlyn Two et al. v. County of Orange (2015) 234 Cal.App.4th 800***

The step transaction doctrine does not apply to reassess a retail shopping center whose lease was extended for a term that exceeded 35 years and then sold to the lessee and an outside investor since the original lease term was for greater than 35 years and the two steps, viewed together, were not for the purpose of avoiding reassessment of property taxes. The appellate court thus concluded that the shopping center should not have been reassessed because no change in ownership occurred within the meaning of Revenue and Taxation Code section 60.

***Gunter Siebold v. County of Los Angeles (2015) 240 Cal.App.4th 674***

The Court of Appeal held that the taxpayer's right of possession under the ground lease, which afforded the taxpayer an exclusive right to store his aircraft and equipment on the leased premises, was sufficiently independent of the interests retained by Santa Monica to constitute a taxable possessory interest in the lease. The court further held that whether the hangar is a taxable improvement on tax-exempt land was an issue of fact that precluded summary judgment with respect to the hangar.

***Sprint Telephony PCS, L.P. et al. v. State Board of Equalization (2015) 238 Cal.App.4th 871***

A telephone company state assessee forfeited its right to file a property tax refund action because it failed to check the box on its reassessment petition form indicating that the petition was to serve as a claim for refund, and did not otherwise notify the State Board of Equalization pursuant to Revenue and Taxation Code section 5148(f) and (g), that it intended its petition to serve as a claim for refund. The appellate court determined that the trial court properly relied upon the principle requiring strict compliance with tax statutes, in accordance with California Constitution article XIII, section 32, vesting the Legislature with plenary control over the manner in which tax refunds could be obtained.

The full text of these court cases may be viewed from the California Courts website at [www.courts.ca.gov/opinions-slip.htm](http://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/ Diane Yasui for

Dean R. Kinnee  
Deputy Director  
Property Tax Department

DRK:grs