

SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA



ITEM: 2.6
(ID # 11578)

MEETING DATE:

Tuesday, January 28, 2020

FROM : AUDITOR CONTROLLER:

SUBJECT: AUDITOR-CONTROLLER: Authorization of denial of state assessed unitary property tax refund claims for Tax Year 2015-16, Districts: All. [\$0]

RECOMMENDED MOTION: That the Board of Supervisors:

1. Authorize the denial of six State assessed unitary property tax refund claims for the return of 2015-16 taxes paid on State assessed bills for Sprint Telephony PCS, Sprint Communications Company L.P., Pacific Bell, BNSF Railway Company, AT&T Mobility LLC and AT&T Communications ("Claimants"), pursuant to Revenue and Taxation Code Sections 100 and Section 5096 and authorize the Auditor-Controller to notify the Claimants of the Board's decision.

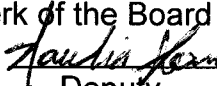
ACTION: Consent


Paul A. Angulo, County Auditor-Controller 1/8/2020

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Perez, seconded by Supervisor Spiegel and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Jeffries, Spiegel, Washington, Perez and Hewitt
Nays: None
Absent: None
Date: January 28, 2020
xc: Auditor

Kecia R. Harper
Clerk of the Board
By: 
Deputy

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FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost
COST	\$0.00	\$0.00	\$0.00	\$0.00
NET COUNTY COST	\$0.00	\$0.00	\$0.00	\$0.00
SOURCE OF FUNDS:			Budget Adjustment:	No
			For Fiscal Year:	2019-20

C.E.O. RECOMMENDATION: Approve

BACKGROUND:

Summary

The Auditor-Controller is required to calculate the tax rate necessary for the timely and accurate billing of property taxes in Riverside County. The California Constitution XIII, XIII A and various Revenue and Taxation Codes directs the counties on the property tax process, including State assessed unitary property. The Auditor-Controller's Office has received six property tax refund claims from unitary property owners for taxes paid in 2015-16. The property owners' claims state the unitary property tax rate is in excess of the rate allowed by the California Constitution, and have requested a combined refund of \$1,605,164.97 plus interest.

The Auditor-Controller's Office has followed all the requirements of Revenue and Taxation Code Section 100 directing the establishment and calculation of the unitary tax rate for tax year 2015-16. The unitary tax rates have been audited by the State Controller's Office and deemed calculated in compliance with State law. The Auditor-Controller is requesting the Board's authorization to deny the claims.

The California Constitution and Revenue and Taxation Code legislate property tax. Under Article XIII, Section 1 (a) all property is taxable. Under Section 19 the State Board of Equalization is required to annually assess property owned or used by regulated railway, telegraph, or telephone companies. This property shall be subject to taxation to the same extent and in the same manner as other property. Article XIII A Section 1 (a) states the maximum amount of any ad valorem tax on real property shall not exceed one percent (1%) of the full cash value of such property. The one percent (1%) tax to be collected by the counties and apportioned according to law to the districts within the counties. Section 1 (b) states the limitation provided for subdivision (a) shall not apply to ad valorem taxes or special assessments to pay the interest and redemption charges on any of the listed voter approved debt, such as school bonds. Revenue and Taxation Code Section 723 and 723.1 instructs the State Board of Equalization regarding valuing property and defines certain state assessed properties as "unitary property" and "non-unitary property". Revenue and Taxation Code Section 100 instructs the County how the values and revenues for unitary property shall be allocated.

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Section 100 (a) requires the County to establish one countywide tax rate area. The assessed value of all unitary and operating non-unitary property shall be assigned to this tax rate area. No other property shall be assigned to this tax rate area. Section 100 (b) requires property assigned to the tax rate area created by subdivision (a) to be taxed for the counties ad valorem tax levies at a rate as prescribed by a set formula.

Each of the claimants have challenged the State requirements and stated they are entitled to a refund of a portion of their respectively paid 2015-16 unitary taxes plus interest, on the grounds the taxes were erroneously or illegally collected, or illegally assessed or levied, and gave the following reasons:

- a. The property tax rate applied to compute claimant's property tax was in excess of the rate applied in the same year to the 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 the claimant's property taxes exceeded the rate allowed by Article XIII A, Section 1 of the California Constitution.

In consultation with County Counsel, the Auditor-Controller's Office has reviewed the claims and the audited County practices for unitary taxation. Riverside County follows the requirements of Revenue and Taxation Code Section 100 for the calculation of the unitary tax rate. Therefore, the Auditor-Controller has determined that no refund is allowable to the property owner and requests the Board instruct the Auditor-Controller's Office to deny the claims.

If a board of supervisors for a county does not render a decision in regard to a claim for refund within six months after receipt of such claims, a claimant may file a suit in court. Also, a claimant would have 6 months to file a suit in court from the date a denial decision is made by a board of supervisors. The six claims from Sprint Telephony PCS, Sprint Communications Company L.P., Pacific Bell, BNSF Railway Company, AT&T Mobility LLC and AT&T Communications were filed with the County in late 2019 as further described in Attachment A. The County has six months after receipt to approve or deny the claims before the claimants may file suit in court. If the County does deny the claims, that starts a six-month statute of limitations in which a claimant must bring suit.

Impact on Residents and Businesses

If a refund were allowable by law, the refund would impact primarily school districts and water districts of Riverside County with voter approved debt obligations.

ATTACHMENT A:

Summary of Claims

Claim for Refund of Tax Payments

Assessee	Co.	Year	Claim	Date Received	
				By County	By Auditor Controller's Office
Sprint Telephony PCS	33-720	2015-16	\$ 275,338.51	12/11/2019	12/12/2019
Sprint Communications Company L. P.	33-214	2015-16	\$ 24,748.62	12/11/2019	12/12/2019
Pacific Bell	33-279	2015-16	\$ 488,834.00	11/25/2019	12/12/2019
BNSF Railway Company	33-804	2015-16	\$ 189,837.84	11/27/2019	12/12/2019
AT& T Mobility LLC	33-606	2015-16	\$ 568,558.00	11/25/2019	12/12/2019
AT& T Communications	33-310	2015-16	\$ 57,848.00	11/25/2019	12/12/2019
			<u>\$ 1,605,164.97</u>		

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