



Legislation Text

File #: 24-0511, **Version:** 1

County Counsel recommending the Board deny unitary property tax refund claims received from Pacific Bell and AT&T Mobility LLC for Tax Years 2017/18, 2019/20, 2020/21, and 2021/22; T-Mobile West LLC for Tax Year 2017/18; and Sprint Telephony PCS, L.P. for Tax Year 2017/18.

FUNDING: General Fund.

DISCUSSION / BACKGROUND

Several telecommunication companies, including Pacific Bell and AT&T Mobility LLC, T-Mobile West LLC, and Sprint Telephony PCS, L.P. are pursuing refund claims against a number of counties, challenging the statutory formula used to calculate its property tax rate. The claimants allege that the tax rate applied to their property taxes exceed the rate allowed by the constitution. Under Article XIII, sec. 19 of the California Constitution, the State Board of Equalization ("State BOE") is charged with annually valuing and assessing the taxable property of a telecommunications company operating across the state as one unit. Property so valued and assessed is known as "unitary property." Once the unitary property is assessed, the State BOE transmits to each county the assessed value of the portion of property located within the individual county. The amount of unitary property assessments attributed to the county by the State BOE are then taxed in accordance with the statutory formula. County auditors have no discretion on their calculation of the unitary tax rate; they are required to impose a tax on unitary property using the rate calculation formula prescribed in Rev. & Tax. Code § 100.

The Clerk of the Board of Supervisors received tax refund claims from Pacific Bell and AT&T Mobility LLC, T-Mobile West LLC, and Sprint Telephone PCS, LP requesting the return of the following amounts paid, plus appropriate interest, for taxes levied for the following fiscal years:

Pacific Bell

FY 2017/18 \$118,085
FY 2019/20 \$94,446
FY 2020/21 \$102,945
FY 2021/22 \$263,004

AT&T

FY 2017/18 \$40,293
FY 2019/20 \$47,190
FY 2020/21 \$83,071
FY 2021/22 \$79,357

T-Mobile West LLC

FY 2017/18 \$16,923.13

Sprint Telephony PCS, LP

FY 2017/18 \$11,583.84

Pacific Bell and AT&T Mobility LLC, T-Mobile West LLC, and Sprint Telephony PCS previously submitted refund claims for prior fiscal years which were denied. Other counties that have received similar refund claims have also uniformly denied these claims. Lawsuits have been filed in Santa Clara County, Riverside County, and Napa County to determine whether the statutory tax rate imposed on telecommunication companies complies with Article XIII, Section 19 of the California

Constitution. In the Santa Clara County case, the Sixth District Court of Appeals concluded that the statutory tax rate prescribed in Rev. & Tax. Code § 100 is constitutional (County of Santa Clara v. Superior Court (AT&T Mobility) (2023) 87 Cal.App.5th 347). A petition for review of the Sixth District appellate court's opinion was denied by the California Supreme Court. More recently in a lawsuit filed by Pacific Bell, the trial court entered judgment in favor of Riverside County. The parties are waiting to see if Pacific Bell will appeal the trial court decision. The case in Napa County is still pending in the trial court.

The property tax amounts at issue in the refund claims were properly calculated by the Auditor-Controller's Office using the calculation formula mandated in state law. Consequently, it is recommended that the Board of Supervisors deny the claims.

ALTERNATIVES

The County is required to tax all state assessed unitary property as set out in Rev. & Tax. Code § 100. If the requirements are not followed, the County will not be in compliance.

PRIOR BOARD ACTION

The Board denied similar refund claims in prior years from:

- 1) Pacific Bell and AT&T Mobility, LLC for FY 2016/17 (Legistar 21-0676) and FY 2018/19 (Legistar 23-0908);
- 2) T-Mobile West, LLC for FY 2015/16 (Legistar 20-0686), FY 2016/17 (Legistar 21-0677) and FY 2018/19 to 2022/23 (Legistar 23-0735); and
- 3) Sprint for FY 2015/16 (Legistar 20-0704), FY 2016/17 (Legistar 21-0678), and FY 2018/19 to FY 2022/23 (Legistar 23-0810).

OTHER DEPARTMENT / AGENCY INVOLVEMENT

N/A

CAO RECOMMENDATION / COMMENTS

Approve as recommended.

FINANCIAL IMPACT

There is no fiscal impact in denying the claims.

CLERK OF THE BOARD FOLLOW UP ACTIONS

N/A

STRATEGIC PLAN COMPONENT

N/A

CONTACT

Janeth SanPedro