



Legislation Text

File #: 23-0396, **Version:** 1

TO: Board of Supervisors
FROM: Tracy Schulze - Auditor-Controller
REPORT BY: Raymond Francis - Accountant-Auditor I
SUBJECT: Authorization for the Auditor-Controller to deny state assessed unitary property tax refund claims for Tax Years 2018-19, 2019-20, 2020-21, 2021-22, and 2022-23

RECOMMENDATION

Auditor-Controller requests authorization to deny seventeen (17) State assessed unitary property tax refund claims for return of 2018-19, 2019-20, 2020-21, 2021-22, and 2022-23 taxes paid on Assessor Parcel Numbers 799-000-162, 799-000-181, 799-000-218, 799-000-173, and 799-000-222 (five Telecom properties), pursuant to Revenue and Taxation Code Section 100 and Section 5096.

EXECUTIVE SUMMARY

Auditor-Controller is required to calculate the tax rate necessary for the timely and accurate billing of property tax in Napa County. The California Constitution Articles XIII and XIII A and Revenue and Taxation Code direct the counties on the property tax process, including state assessed unitary property. The Auditor-Controller's Office has received seventeen property tax refund claims from unitary property owners (five Telecom companies) for paid 2018-19, 2019-20, 2020-21, 2021-22, and 2022-23 taxes. 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 \$945,015.13, 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 years 2018-19, 2019-20, 2020-21, 2021-22, and 2022-23. The unitary tax rate process has been previously 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.

FISCAL & STRATEGIC PLAN IMPACT

Is there a Fiscal Impact?	Yes
Is it currently budgeted?	No
Is it Mandatory or Discretionary?	Mandatory
Is the general fund affected?	No
Future fiscal impact:	If further claims for other tax years are received, there would be similar reductions to property tax revenue for those years.

Consequences if not approved: Napa County is required to tax all state assessed property as set out in Revenue and Tax Code 100. If the requirements are not followed, the County will not be in compliance.

County Strategic Plan pillar addressed: Effective and Open Government

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

BACKGROUND AND DISCUSSION

In California, 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 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 assessment 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 "nonunitary property". Revenue and Taxation Code Section 100 instructs the County how the values and revenues for unitary property shall be allocated. Section 100 (a) requires the County to establish one countywide tax rate area. The assessed value of all unitary and operating nonunitary 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 proscribed by a set formula.

The claimants have challenged the state requirements and stated they are entitled to a refund of a portion of their paid 2018-19, 2019-20, 2020-21, 2021-22, and 2022-23 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 Napa County in violation of Article XIII, section 19 of the California Constitution and *ITT World Communications v. City and County of San Francisco*.
- b. The property tax rate applied to compute claimants property taxes exceeded the rate allowed by Article XIII A, section 1 of the California Constitution.

The claimants are currently engaged in litigation with Riverside and Santa Clara Counties over those counties' denial of claimants' tax refund claims on similar grounds. On January 6, 2023, the 6th District Court of Appeal decided in favor of Santa Clara County.

In consultation with County Counsel, the Auditor-Controller's Office has reviewed the claims and the audited County practices for unitary taxation. Napa 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 to instruct the Auditor-Controller's Office to

deny the claims. This is the fifth year of this request.