



**DISCUSSION:**

On December 7, 2018, Claimant filed its claim for a refund of the over payment of the District's special assessments levied and paid for in assessment years 2014/15 through 2017/18, in the aggregate amount of \$76,379.38. [Exhibit A]

Because the District authorizes Solano County officers to collect and pay special assessments, upon receipt of the payoff amounts, the County distributed the special assessment amounts to the District.

Claimant asserts that Assessor's Office and the District and its agents failed to correct the improper land use classification that occurred in in the 2010/2011 tax year and that this failure has resulted in the erroneous assessments since then.

Claimant owns approximately 153.63 acres in Reclamation District 501, including 150.13 acres located on APN 0042-220-160 ["the property"]. The property is a vineyard, improved with a single-family home, a detached 3-car garage, a horse barn and a metal farm building. For the assessment years 2013/2014 through 2018/2019, the Claimant's property was specially assessed based upon a residential use classification and not an agricultural use.

In August 2018, the District submitted its Special Assessment Number 7919, and listed the assessment for the property in the amount of \$25,820.32. On September 4, 2018, the District advised the Auditor-Controller that the property should have been assessed at \$6,227. 96 and requested that the special assessment of the property be reduced by \$19,592.36 for the current assessment year, which properly reflects the agricultural use. The Auditor-Controller processed the special assessment correction. A copy of the District's 2018 letter is attached as Exhibit B.

A strikingly similar special assessment correction to the same property [different owners] was processed by the Auditor-Controller at the request of the District in assessment year 2010/2011. The correction accurately reflected the agricultural use of the property. A copy of the District's 2010 letter is attached as Exhibit C.

The Solano County Property Tax System only allows one internal code to be inputted at a time. Since assessment year 2014/2015, the use code for the property has been an agricultural designation, 5053 - Vineyard, as reflected in the attached screen shots and explanatory emails as Exhibit D.

For reasons unclear, the same erroneous assessment for the assessment years 2014/2015 to 2017/2018 recurred as to the property - there was no assessment placed on the tax bill for 2013/2014.

The right to a refund of taxes is purely statutory and governed by specific provisions in the Revenue and Taxation Code, specifically sections 5096 through 5107. "By enacting sections 5096 through 5107, the Legislature established in the Revenue and Taxation Code an entire procedure for the consideration of tax refund claims by the board of supervisors, complete and separate and independent of any other statutory procedure." *Signal Oil & Gas Co. v. Bradbury* (1960) 183 Cal.App.2d 40, 46.]

Rev.& Tax. Code, § 5096 authorizes the refund of taxes in certain situations, including taxes paid that were erroneously or illegally collected.

Rev. & Tax. Code, § 5099 provides that any refund ordered by the board of supervisors may include taxes and assessments collected by county officers for a revenue district.

Rev. & Tax. Code, § 121 defines taxing agency including every district that assesses property for taxation purposes and levies taxes or assessments on the property so assessed. Rev. & Tax. Code, § 122 defines a "revenue district" as including every district for which the county officers assess and collect taxes or assessments. As the Attorney General noted these two sections are mutually exclusive and that a taxing

agency becomes a revenue district when it transfers these functions to the county. [ 59 Ops. Cal. Atty. Gen. 329, 331 (1973).] The opinion concludes, “A ... district cannot logically be both a “taxing agency” and a “revenue district” with respect to a particular year’s taxes on a specific parcel.” [*id.*]

Reclamation District 501 is a revenue district and collects its assessments by way of the tax bill issued by the Solano County Tax Collector. The assessments appear as a separate item on the tax bill and are collected at the same manner as the county ad valorem property taxes.

Under Water Code section 50904, on or before August 1 of each year, the District must certify to the Auditor-Controller the assessments to be collected. When the District submits its Special Assessment No. 7919 to the Auditor-Controller, it provides the assessor’s parcel number (APN), the amount and the special assessment number. Since the County merely acts as a collection agency for the District, the District is responsible for making sure that its data is correct.

In summary, the Assessor’s Office determines the *taxable assessed value of the property*, which it has been accurately doing for the assessment years in question. However, the *special assessment* is independently determined by the District and its Board of Trustees and placed separately on the tax bill. This is known as a “fixed charge” and not based on the Assessor-determined taxable assessed value.

While the Board of Supervisors makes the order that taxes shall be refunded, the refund order may “include county taxes and taxes collected by county officers for a ... revenue district.” [§ 5099.] Since the District is a revenue district, section 5101 provides in pertinent part:

“Refunds ordered by the board of supervisors ... in respect of county taxes shall be paid by warrant drawn upon the appropriate fund by the county auditor. *Refunds ordered in respect of revenue districts ... may be paid by warrant drawn by the county auditor, upon such available funds, if any, as the revenue district may have on deposit in the county treasury, or in the event such funds are insufficient, then out of the funds subsequently accruing to such revenue district in the county treasury.*” [Emphasis added.]

In requesting the special assessment correction to the property in 2010 and 2018, the District admits the classification error resides with its mandatory reporting requirements under Water Code section 50904.

In essence, the District was unjustly enriched at the expense of the Claimant taxpayer. Since Reclamation District 501 is the entity that erroneously received the tax revenues, it is ultimately responsible for the refund.

We recommend that:

1. The Board order the refund to Claimant in the amount of \$76,379.38, plus interest, if any.
2. The Board order the Auditor-Controller to pay the refund from a warrant drawn upon the District’s Fund in the County treasury, or in the event such funds are insufficient, then out of such funds subsequently accruing to the District and on deposit in the County treasury.

**ALTERNATIVES:**

The Board may reject the refund claim; however, this will probably result in the Claimant filing an action to recover the refund and naming the County and the Board as necessary parties, as authorized and mandated by Rev. & Tax. Code, § 5148.

Curiously, the District’s Board of Trustees can order the refund of any assessment erroneously made by reason of inadvertence or clerical mistake at any time after its payment. [Wat. Code, § 51870.]

**OTHER AGENCY INVOLVEMENT:**

The Auditor-Controller, Assessor-Recorder, and Treasurer-Tax Collector-County Clerk assisted in preparing this item and endorses our recommendation.

**CAO RECOMMENDATION:**

APPROVE DEPARTMENTAL RECOMMENDATION