



**Contra
Costa
County**

To: Board of Supervisors
From: Thomas L. Geiger, Chief Assistant County Counsel
Date: February 28, 2023

Subject: Deny claims for unitary property taxes paid for tax year 2021/22

RECOMMENDATION(S):

DENY the claims filed by Pacific Bell, AT&T Corp, and AT&T Mobility LLC in the total amount of \$2,134,617.00, plus interest, in unitary property taxes paid for tax year 2021/22.

FISCAL IMPACT:

No fiscal impact.

BACKGROUND:

Pacific Bell, AT&T Corp, and AT&T Mobility LLC (collectively, "Claimants") have filed claims for refund of property taxes against the County and a number of other counties, essentially alleging that the statutory formula used to calculate their property tax rate violates the California Constitution.

In January 2023, Pacific Bell submitted a claim in the amount of \$1,239,369.00, AT&T Corp submitted a claim in the amount of \$47,963.00, and AT&T Mobility LLC submitted a claim in the amount of \$847,285.00. [The claims are provided in Attachments A-C.] The claims, in the collective amount of \$2,134,617.00, are for property taxes paid for tax year 2021/22. Claimants request interest on the requested refund amounts.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY
ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **02/28/2023** ☒ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor
Candace Andersen, District II Supervisor
Diane Burgis, District III Supervisor
Ken Carlson, District IV Supervisor
Federal D. Glover, District V Supervisor

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: February 28, 2023

Monica Nino, County Administrator and Clerk of the Board of Supervisors

Contact: Rebecca Hooley, Assistant County Counsel, (925) 655-2200

By: Stacey M. Boyd, Deputy

Some of these claimants have submitted refund claims for prior years based on the same allegation, which the County has denied. Other counties that have received similar refund claims from these claimants appear to have uniformly denied the claims. Santa Clara County recently prevailed before the Court of Appeal on the basis that the statutory tax rate imposed on property owned by these entities does not violate the California Constitution.

BACKGROUND: (CONT'D)

ANALYSIS:

Under the California Constitution, certain property owned or used by utilities and telecommunication companies, among others, is annually assessed by the State Board of Equalization ("BOE"). (Cal. Const., article XIII, § 19.) The amount of such "unitary property" assessments attributed to the County by the BOE are then taxed by the County in accordance with a statutory formula. (See Rev. & Tax. Code, § 100.)

The Auditor-Controller uses the amount of unitary property assessments annually provided by the BOE to calculate the amount of taxes to be levied on these properties in accordance with a formula mandated by state law (Rev. & Tax. Code, § 100). Based on this formula, the unitary tax rate for 2021/22 is 1.8168%. The Auditor-Controller has confirmed that the rate was correctly calculated pursuant to the State law, and the Office of the State Controller has deemed it correct.

Claimants argue that they are entitled to a partial refund of taxes on the grounds that they were illegally levied because the formula used to calculate the rate is unconstitutional. However, the County is given no discretion on its calculation of the unitary tax rate; it is a mandated formula set by the State. A recent decision from the California Court of Appeals has affirmed the constitutionality of the rate. (*County of Santa Clara v. Sup. Ct.* (2023) 87 Cal.App.5th 347.) For these reasons, the claims should be denied.

CONSEQUENCE OF NEGATIVE ACTION:

Failure to take the recommended action would result in interest continuing to accrue on a potential court-ordered refund of property taxes.

ATTACHMENTS

Attachment A - Claim of Pacific Bell

Attachment B - Claim of AT&T Corp

Attachment C - Claim of AT&T Mobility LLC