

Bond Case Briefs

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McWilliams v. City of Long Beach

Supreme Court of California - April 25, 2013 - P.3d - 13 Cal. Daily Op. Serv. 4090

Taxpayer brought class action against city for tax refund, and for declaratory, injunctive, and writ relief challenging the City of Long Beach's telephone users tax (TUT) and seeking refund of the taxes paid. Taxpayer asserted that Long Beach Municipal Code section 3.68.50, subdivision (d) exempted from the TUT all amounts that "are exempt from or not subject to" the federal excise tax on telephone service and that the City has for some time mischaracterized the charges subject to the federal excise tax.

Supreme Court of California held that:

- Local charters or ordinances do not preclude Government Claims Act tax refund class actions;
- Government Claims Act does not violate home rule taxing power of charter cities; and
- Government Claims Act provides the necessary legislative authorization for class claims of taxpayer refunds against local governmental entities.

Code of Civil Procedure section 313 provides that the "general procedure" for the presentation of claims for money or damages against a local government entity is prescribed by the Government Claims Act. The California Supreme Court had previously held that the Government Claims Act permits a class action claim by taxpayers against a local government entity for the refund of an unlawful tax "in the absence of a specific tax refund procedure set forth in an applicable governing claims statute." In this case, the defendant local government entity asserts that its municipal code contains an "applicable governing claims statute" barring class action claims for a tax refund. The Supreme Court concluded that a local ordinance is not a "statute" within the meaning of the Government Claims Act and therefore affirmed the Court of Appeal.

A local charter provision or municipal ordinance governing claims for tax refunds does not preclude a Government Claims Act class action claim by taxpayers against a local government entity for the refund of an unlawful tax, since a charter provision or municipal ordinance does not qualify as a "statute prescribing procedures for the refund of any tax"; disapproving *Pasadena Hotel Development Venture v. City of Pasadena*, 119 Cal.App.3d 412, 174 Cal.Rptr. 52, and *Batt v. City and County of San Francisco*, 155 Cal.App.4th 65, 65 Cal.Rptr.3d 716.