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Stevenson v. New York State Tax Appeals Tribunal

Supreme Court, Appellate Division, Third Department, New York - May 2, 2013 - N.Y.S.2d - 2013 N.Y. Slip Op. 03137

The parties here agreed that taxpayer is entitled to claim QEZE credits for “eligible real property taxes” (Tax Law § 15[a], [e]), but disagreed as to whether Sanitary District charges fell within the definition of that phrase. For the reasons stated in the decision in *Matter of Piccolo v. New York State* [briefed herein] the term “eligible real property taxes” in Tax Law former § 15(e) does not include special ad valorem levies and special assessments. The appeals court agreed with the tribunal’s determination that the charges at issue are ad valorem levies, not taxes.

Although the parties disputed whether the charges at issue are imposed in proportion to the benefit received or in the same manner as taxes for municipal purposes, they qualify as either ad valorem levies or special assessments. As neither of those categories falls within the definition of tax, the tribunal rationally determined that the charges at issue were not taxes, and taxpayer failed to meet her burden of proving that such charges could be claimed as the basis for a QEZE credit under Tax Law § 15(e).