

Bond Case Briefs

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TAX - DISTRICT OF COLUMBIA

District of Columbia v. 17M Associates, LLC

District of Columbia Court of Appeals - September 4, 2014 - A.3d - 2014 WL 4361554

Tenant filed petition claiming that the District of Columbia violated lease by imposing possessory interest tax. The Superior Court entered summary judgment in favor of tenant. District appealed.

The Court of Appeals held that:

- Board of Real Property Assessments and Appeals (BRPAA) lacked jurisdiction to decide if lease exempted tenant from the tax, and
- Lease did not exempt tenant from possessory interest tax.

“Real property classification” in statute permitting lessee or user disputing possessory interest tax assessment to appeal from a notice of proposed assessed value and real property classification in the same manner and under the same conditions as an owner referred to classes of taxable real property, not taxpayer’s exemption status under lease, and, thus, BRPAA lacked jurisdiction to decide if lease exempted District of Columbia tenant from the tax.

Tenant’s leasehold interest in District of Columbia land was a species of personal property, not part of “demised premises,” within meaning of lease requiring tenant to pay any new tax imposed upon the demised premises, if the tax was based on or arose out of the ownership, use, or operation of tenant’s improvements, and, thus, lease did not exempt tenant from possessory interest tax, even though it was measured by value of the property. Lease defined “demised premises” as including the District-owned land and the improvements, ways, easements, air and surface rights for that land, District could not have demised tenant’s possessory interest to it, and lease did not indicate that tenant was liable only for expressly authorized taxes.