Bond Case Briefs

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TAX - NEW JERSEY

Levy v. City of Long Branch

Tax Court of New Jersey - May 5, 2023 - N.J.Tax - 2023 WL 3295416

Taxpayer applied for Freeze Act relief from increase in real property assessment based on Tax Court's final value judgment for a tax year that preceded the tax year which was subject of his county tax board case, following a global settlement for both tax years in question.

The Tax Court held that:

- Freeze Act waiver in county tax board case did not extend to Tax Court case due to global settlement;
- County tax board judgment did not negate vitality of Tax Court judgment as a base year under Freeze Act; and
- County tax board judgment was not proof of change in value that would negate application of Freeze Act.

Under the Freeze Act, which provides protection against an increase in assessed value of real property for the two years following a final value judgment of the Tax Court or a county board of taxation, the final value judgment amount for the tax year under appeal, known as the "base year," is mechanically carried forward to each of the succeeding two years, known as the "freeze years."

Taxpayer's express waiver of Freeze Act protection, of freezing real property assessments for two years following entry of a final value judgment, in his county tax board case concerning second tax year did not extend to his Tax Court case concerning first tax year due to parties' global settlement for both tax years in question, where stipulation of settlement in Tax Court case was silent as to Freeze Act, there was no condition in city's offer in county tax board case that the Freeze Act be waived in Tax Court case, taxpayer did not know that he was expected to waive application of Freeze Act in Tax Court case due to his house being in county, and taxpayer should not have been aware of any expectation/implied waiver in Tax Court case.

Existence of global multi-year settlement involving Tax Court case for first tax year and a county tax board case for second tax year did not preclude first tax year from being the controlling base year for purposes of application of Freeze Act protection, of freezing real property assessments for two years following entry of a final value judgment, to third tax year, where main issue in dispute was whether taxpayer waived benefit of Freeze Act for third tax year based on global settlement, which involved separate stipulations of settlement and only one Freeze Act waiver in county tax board case, and there was no trial on valuation of multiple years before the court.

An "internal change" in value of real property, which negates application of Freeze Act protection of freezing property assessments for two years following entry of a final value judgment, refers to easily ascertainable physical improvements to the subject property such as added floors, whereas an "external change" in value, which also negates application of Freeze Act, include extreme economic changes within close proximity of the subject property or of immediate neighboring properties which increases the subject property's value.

County tax board's value judgment for second tax year, which was lower than Tax Court's value judgment for first tax year, was not proof of a change in value of real property that would negate application of two-year Freeze Act protection for property assessments to third tax year, where parties stipulated to values for first and second tax years as part of their global settlement of both matters, even if market data submitted supported a reduction for second tax year and the assessment for third tax year was higher than the stipulated value for first and second tax years.

Evidence that the subject property's alleged increased value is the result solely of general inflationary trends is not proof of an external change in value that negates application of Freeze Act protection of freezing real property assessments for two years following entry of a final value judgment.