

Posted Date	Name of Case (Docket Number)	Type
May 31, 2023	<p data-bbox="277 149 1235 176">JANTZEN, GIUSEPPIN NINA & MATTHEW D. V GREEN TOWNSHIP (008224-2022, 008229-2022)</p> <p data-bbox="321 203 1299 228">ADDED ASSESSMENT APPEALS (N.J.S.A. 54:4-63.11) – CASE TRACK REASSIGNMENT (R. 8:6-7)</p> <p data-bbox="277 254 1403 329">Tax Court: Jantzen, Giuseppin Nina & Matthew D. v. Green Township; Docket Nos. 008224-2022 & 008229-2022, opinion by Bianco, J.T.C., decided May 30, 2023. For plaintiff – Kevin S. Englert (The Englert Law Firm, L.L.C.; attorney); for defendant – Robert B. McBriar (Schenck, Price, Smith & King, L.L.P.; attorney).</p> <p data-bbox="277 357 1403 588">Plaintiff Taxpayers moved to change the small claims track designation assigned by the Tax Court Management Office for both above-referenced docket numbers, to the standard track to secure more comprehensive discovery. Defendant Township cross-moved for summary judgment to dismiss the added assessment appeal under docket number 008224-2022 as untimely pursuant to N.J.S.A. 54:4-63.11. The court denied Defendant’s cross-motion to dismiss the added assessment appeal finding that the Township did not establish that the Tax Collector mailed notice of the 2021 added assessment to the Taxpayers, nor did the Taxpayers have constructive notice of the added assessment, and, Taxpayers were further denied a hearing before the Sussex County Board of Taxation. The court granted Plaintiffs’ motion the change the track designation in both matters finding that the change is necessary for Plaintiffs to pursue their claims against Defendant.</p> <p data-bbox="277 640 386 665">(26 Pages)</p>	Tax
May 8, 2023	<p data-bbox="277 745 862 772">LEVY, MORRIS V. CITY OF LONG BRANCH (000448-2021)</p> <p data-bbox="321 798 565 823">LOCAL PROPERTY TAX</p> <p data-bbox="277 848 1403 951">Tax Court: Levy v. City of Long Branch, Docket No. 000448-2021, opinion by Sundar, P.J.T.C., decided May 5, 2023. For plaintiff - Michael I. Schneck (Schneck Law Group, LLC, attorney) and Robert E. Spiotti (Spiotti & Associates, PC, attorney); for defendant – Shaun Peterson (Hoagland, Longo, Moran, Dunst & Doukas, LLP, attorney).</p> <p data-bbox="277 976 1403 1207">Held: Parties reached a global settlement agreement as to plaintiff’s complaint in the Tax Court for tax year 2021 and his petition before the county board of taxation for tax year 2022. The stipulation in the Tax Court matter was silent on the Freeze Act’s application. The stipulation in the County Board matter included plaintiff’s express waiver of the Freeze Act. Based on the four corners of the Tax Court stipulation, the court found that plaintiff did not waive application of the Freeze Act in the Tax Court matter. Based on the record, the court found that plaintiff’s waiver of the Freeze Act in the County Board matter did not extend to, nor would be implied in settlement of the Tax Court matter. The court was unpersuaded that the only base year in a multi-year settlement must be the last year of the value judgment. The court was also unpersuaded that, without more, the County Board’s judgment is proof of a change in value for Freeze Act purposes.</p> <p data-bbox="277 1211 1403 1262">The court granted plaintiff’s motion for application of the Freeze Act to tax year 2023 based on the Tax Court’s final value judgment for tax year 2021.</p> <p data-bbox="321 1287 430 1312">(15 Pages)</p>	Tax
May 2, 2023	<p data-bbox="277 1365 1029 1392">CHRISTOPHER GILL V DIRECTOR, DIVISION OF TAXATION (004035-2021)</p> <p data-bbox="277 1417 1403 1467">STATUTE OF LIMITATIONS, RESPONSIBLE PERSON LIABILITY FOR GROSS INCOME TAX-ER AND SALES AND USE TAX.</p> <p data-bbox="277 1493 1403 1568">Tax Court: Gill v. Director, Division of Taxation, Docket No.004035-2021, opinion by Fiamingo, J.T.C., decided May 1, 2023. For plaintiff - Maria L. Dooner; for defendant Lindsey R. Curewitz (Matthew Platkin, Attorney General of New Jersey, attorney).</p> <p data-bbox="277 1593 1403 1824">HELD: Plaintiff moved to apply the limitations period for assessment of tax to imposition of responsible person liability for gross income tax withholding under N.J.S.A. 54A:9-6(f) and (g) and for sales and use tax under N.J.S.A. 54:32B-2(w). Director opposed and moved to uphold notification of responsible person status issued beyond limitation periods of the Gross Income Tax Act and Sales and Use Tax Act. The court ruled that the notification of responsible person for purposes of imposing the penalty assessed by N.J.S.A. 54A:9-6(f) and/or (g) for gross income tax employer withholding required by N.J.S.A. 54A:7-1 et seq. was subject to the limitations period applicable to assessment of gross income tax. The court ruled that no limitations period applied to the notification of responsible person liability for Sales and Use Tax, as such tax by statute was assessed against the responsible person upon the filing of the return by the seller.</p> <p data-bbox="277 1877 370 1902">21 pages</p>	Tax

Feb. 13, 2023	<p>OCEAN GROVE CAMP MEETING ASSOC. ETC V TOWNSHIP OF NEPTUNE (A-2730-20)</p> <p>No summary available for this Appellate Division opinion which has been approved for publication in the Tax Court Reports.</p>	Tax
Jan. 31, 2023	<p>NJ STATE FIREMEN'S ASSN. V. DIRECTOR, DIV OF TAX, ET ALS (00151-19)</p> <p>Tax Court: New Jersey State Firemen's Association v. Dir., Div. of Taxation, Philadelphia Contributionship Ins. Co., Germantown Insurance Co., Greater New York Mutual Ins. Co., and Strathmore Ins. Co., Docket No. 000151-2019, opinion by Sundar, P.J.T.C., decided January 30, 2023. For plaintiff - Michael E. Sullivan (Parker McCay, P.A., attorney); for defendant, Dir., Div. of Taxation - Michael J. Duffy (Matthew J. Platkin, Attorney General of New Jersey, attorney), for remaining defendants and intervenor Strathmore Ins. Co. - Michael A. Guariglia and Jamie Zug (McCarter & English, LLP, attorney).</p> <p>Held: Defendant, Division of Taxation's ("Taxation") decision via its web-published Notice in 2016, to extend the statutory cap on premiums applied when computing the insurance premium tax (IPT) for domestic and foreign companies, in calculating the fire insurance premium tax (FIPT) paid to plaintiff by foreign insurers, is contrary to the plain language and intent of the FIPT statute, N.J.S.A 54:18-1, thus is not entitled to any deference. Its interpretation of the provision in N.J.S.A. 54:18A-2(a) that the FIPT is considered "a part of" the "payable" IPT as requiring the cap to apply in computing the FIPT is unreasonable because, (a) since 1945, this provision has been interpreted to simply mean that the IPT statute requires a credit for the FIPT paid so that a foreign insurer does not pay a tax on fire insurance premiums twice, and (b) it results in plaintiff receiving less than the mandated 2% FIPT on "all of the" fire insurance premiums earned in New Jersey. The cap on premiums for purposes of computing the IPT need not, and should not, be extended in computing the FIPT unless the Legislature acts to amend the respective statutes.</p> <p>Due to this holding, the court did not need to consider plaintiff's arguments that Taxation's decision violated the Administrative Procedures Act, or Taxation's arguments that its Notice, as a public guidance document should be upheld under the temporary validity doctrine until it formally promulgates and finalizes regulations reflecting its changed position as to FIPT computation.</p> <p>The court granted NJSFA's motion for partial summary judgment, invalidated the Notice, and denied Taxation's motion for summary judgment.</p>	Tax
Nov. 1, 2022	<p>OPTIONS IMAGINED V. PARSIPPANY-TROY HILLS TWP (3 APPEALS) (10456-20)</p> <p>Tax Court; Options Imagined v. Parsippany-Troy Hills Township; Docket Nos. 010456-2020, 09577-2021 and 007910-2022; opinion by Bianco, J.T.C., decided October 31, 2022. For plaintiff – Robert B. McBriar (Schneck, Price, Smith, & King, LLP., attorneys); For defendant – Richard P. DeAngelis (Connell Foley., attorneys).</p> <p>The court held that Options Imagined, a New Jersey nonprofit and Federal § 502 (c) (3) corporation, satisfied the requirements for property tax exemption under N.J.S.A. 54:4-3.6, finding that it was actually used in furtherance of the nonprofit's charitable purpose, to provide care to mentally disabled adults, where its sole and current resident is the son of the President of the corporation. The court found that Options satisfied the <u>Paper Mill</u> use test because it is opened to the public and serves a public purpose.</p>	Tax
Oct. 24, 2022	<p>SF III KINDERKAMACK, LLC V BOROUGH OF ORADELL (005860-2021)</p> <p>Tax Court: SF III Kinderkamack, LLC v Borough of Oradell; Docket Nos. 005860-2021, opinion by Orsen, J.T.C., decided October 21, 2022. For proposed Intervenor – Paul Tannenbaum (Zipp & Tannenbaum, LLC, attorneys); for plaintiff – Michael Ash (Carlin, Ward, Ash & Heiart, LLC, attorneys); and for defendant – Alan Spiniello (Alan Spiniello Law Offices, attorneys).</p> <p>Held: Intervenor, Dabby Bergen Medi Pro, LLC, Sianes Bergen Medi Pro, LLC, YB 690 Kinder, LLC, and Yazam Investments, LLC collectively, sought to be joined as a party to the 2021 property tax appeal filed by plaintiff, SF III Kinderkamack, LLC. Intervenor asserted that the court rules pertaining to the transfer of interest, intervention and joinder were applicable; and standing existed to participate in the case as the new owner of the property. Defendant, Borough of Oradell, opposed the motion and maintained that Intervenor did not have standing because it was not the property owner as of the property tax appeal filing deadline, its claim was not within the statute of limitations and the requirements of the applicable court rules were not met. The court determined that Intervenor met the standards to join due to the transfer of interest of the property per the court rules. Moreover, the court found that Intervenor had standing in its fact-sensitive analysis through multiple factors including the review of its financial interest in the property and responsibility to pay taxes. Intervenor was also not barred by the statute of limitations as no new relief was sought. Accordingly, the court granted Intervenor's motion to join the case as a party.</p>	Tax
Sept. 29, 2022	<p>BLOOMINGDALE'S, INC. AND BLOOMINGDALE'S C/O FEDERATED DEPARTMENT STORES, INC. V HACKENSACK CITY (006396-2016, 07619-2016, 004282-2017, 006959-2018, 003279-2019, 004117-2020)</p> <p>Tax Court: Bloomingdale's, Inc. and Bloomingdale's c/o Federated Department Stores, Inc. v. Hackensack City; Docket Nos. 006396-2016, 007619-2016, 004282-2017, 006959-2018, 003279-2019, 004117-2020, opinion by Novin,</p>	Tax

J.T.C., decided August 8, 2022; publication date September 28, 2022. For plaintiff – Gregory S. Schaffer and Adam R. Jones (Garippa, Lotz & Giannuario, P.C., attorneys); for defendant – Kenneth A. Porro (Chasan Lamparello Mallon & Cappuzzo, P.C., attorneys).

The court concluded that the subject property's tax assessments should be afforded a presumption of validity because defendant's tax assessor relied on reasonable available market data and methods in fulfilling his constitutional and statutory obligations. The court found that defendant's ineligibility to conduct an annual reassessment program, under N.J.A.C. 18:12A-1.14(i), was not singularly dispositive on the issue of whether the local property tax assessments were entitled to a presumption of validity. Rather, the court observed that the inquiry must focus on whether the valuation and local property tax assessments were reasonably related to sound assessment practices, based on reasonable data and information, a sensitivity to changing market conditions, and consideration of physical factors uniquely applicable to the property. The court found that plaintiff offered no evidence that the market data, analysis, and/or methodology relied upon by the defendant's tax assessor were flawed or arbitrary. Accordingly, the court rejected plaintiff's arguments that no presumption of validity should attach to the subject property's tax assessments.