

Posted Date	Name of Case (Docket Number)	Type
July 25, 2024	<p>TOWN OF MORRISTOWN V MORRIS COUNTY BOARD OF TAXATION (005100-24)</p> <p>LOCAL GOVERNMENTS, FINANCE. LOCAL GOVERNMENTS, ADMINISTRATIVE BOARDS. ADMINISTRATION & PROCEDURE, ASSESSMENTS. STATE & LOCAL TAXES, REAL PROPERTY TAXES. LOCAL GOVERNMENTS, CLAIMS BY & AGAINST. LEGISLATION, INTERPRETATION. HEARINGS, EVIDENCE. AMENDMENT OF PLEADINGS, RELATION BACK.</p> <p>Tax Court: Town of Morristown v. Morris County Board of Taxation; Docket No. 005100-2024, opinion by Novin, J.T.C., decided July 24, 2024. For plaintiff – Emil H. Philiposian and Shaun S. Peterson (Hoagland, Longo, Moran, Dunst & Doukas, LLP, attorneys); for defendant - Michelline Capistrano Foster, Deputy Attorney General (Matthew J. Platkin, Attorney General of New Jersey, attorney).</p> <p>Defendant argued, under motion for summary judgment, that because plaintiff failed to object to defendant's 2024 preliminary Morris County equalization table at the county hearing, under N.J.S.A. 54:3-18, plaintiff was precluded from challenging defendant's 2024 final Morris County equalization table before the Tax Court under N.J.S.A. 54:51A-4a. Defendant also argued that plaintiff's challenge to the 2024 final Morris County equalization table was untimely filed under R. 8:4-2(a)(1), and that plaintiff cannot demonstrate defendant's adoption of the 2024 final Morris County equalization table was arbitrary and capricious. Therefore, defendant sought dismissal of plaintiff's complaint with prejudice.</p> <p>Holding: The court found the statutory language under N.J.S.A. 54:51A-4a and N.J.S.A. 54:51A-5b, permitting a taxing district or taxpayer to challenge a final county equalization table, to be clear and unambiguous. Our Legislature required: (i) the filing of a timely a complaint in the Tax Court; (ii) the complaint must be served on the county board of taxation and on the chief executive officer and the clerk of the Board of Chosen Freeholders and on the clerk of every taxing district in the county; (iii) the complaint shall not suspend the apportionment of moneys or collection of taxes in the county; (iv) the Tax Court hearing shall be conducted in the county; (v) five days' advance written notice of the hearing must be given by mail to the governing body of each taxing district in the county; and (vi) the hearing shall be conducted and a decision rendered on or before September 10, annually. The court concluded that the Legislature did not impose any requirement that a taxing district object to a preliminary county equalization table, as a prerequisite to challenging a final county equalization table before the Tax Court. In addition, the court determined that plaintiff's complaint was timely filed, under R. 8:4-2(a)(1). Finally, the court discerned that whether the adoption of the 2024 final Morris County equalization table is arbitrary and capricious, or whether the table is unreasonable, incorrect, or plainly unjust, and impresses upon plaintiff a substantially excessive share of the county tax burden, is a disputed material fact. Accordingly, the court denied defendant's motion for summary judgment.</p> <p>(38 pages)</p>	Tax
June 3, 2024	<p>DONNA PORCARO V. DIRECTOR, DIVISION OF TAXATION (012296-2020 ; 012296-2020)</p> <p>STATE GROSS INCOME TAX</p> <p>Tax Court: Donna Porcaro v. Director, Division of Taxation, Docket No. 012296-2020; opinion by Bedrin Murray, J.T.C., decided May 31, 2024. For plaintiffs – Donna Porcaro (Self-Represented); for defendant – Linzhi Wang (Matthew Platkin, Attorney General of New Jersey, attorney).</p> <p>Held: Plaintiff's challenge to defendant's denial of her claim for a refund of New Jersey gross income tax (GIT) for tax year 2016 is dismissed as untimely, depriving this court of subject matter jurisdiction. Based on the totality of credible testimonial and documentary evidence presented, the court finds that plaintiff received defendant's December 21, 2017 final determination denying plaintiff's refund claim in December 2017, and not in May 2020 as plaintiff alleges. Therefore, plaintiff was unable to overcome the presumption of receipt that attaches to defendant's final determination under N.J.S.A. 54:50-6(a). As such, plaintiff's complaint is dismissed with prejudice.</p> <p>(18 Pages)</p>	Tax
March 6, 2024	<p>FREDA, JOSEPH A. BY ACME AS TENANT V CITY OF SEA ISLE CITY (06381-23)</p> <p>LOCAL PROPERTY TAXATION – MUNICIPAL CHARGE – NON-RESIDENTIAL SITE DEVELOPMENT FEE – PLANNING BOARD ESCROW FEES – LEGISLATION, INTERPRETATION – LOCAL GOVERNMENTS, FINANCE</p> <p>Tax Court: Freda, Joseph A. by Acme as tenant v. City of Sea Isle City; Docket No. 006381-2023, opinion by Cimino, J.T.C., decided March 5, 2024. For plaintiff – Pablo M. Kim(Heinze Law, P.A.); for defendant – Paul J. Baldini, (Paul J. Baldini, P.A.).</p> <p>Held: A tax appeal cannot go forward if a municipal charge is not paid. Municipal charge is a term of art defined by the Legislature. Since neither the non-residential development fee nor the planning board escrow fees constitute a municipal charge in this case, nonpayment cannot bar a tax appeal.</p> <p>(11 pages)</p>	Tax

Feb. 21, 2024	<p>WESTERHOLD, JOHN, ET AL V. TOMS RIVER TWP, ET AL (10281-20 ; 10281-20)</p> <p>THIRD PARTY APPEALS; TRANSFERS OF MATTERS NOT COGNIZABLE IN TAX COURT TO LAW DIVISION</p> <p>Tax Court: Westerhold v. Toms River Township, Docket Nos. 008087-2022, 007534-2023, 009583-2022, 007535-2023; Westerhold v. Brick Township, Docket Nos. 010281-2020, 010282-2020, 008086-2022, 007536-2023, 008085-2022, 007532-2023, opinion by Fiamingo, J.T.C., decided February 20, 2024. For plaintiffs - Paul Tannenbaum, Peter Zipp, Michael Kurpiewski (Zipp & Tannenbaum, attorneys). For defendant, Toms River Township – Kelsey A. McGuckin-Anthony (Dasti, Murphy, Ulaky, Loutsouris & Connor, attorneys); for defendant, Brick Township – Scott W. Kenneally (Starkey, Kelly, Kenneally, Cunningham, et al., attorneys).</p> <p>HELD: Plaintiffs’ complaints contesting the local property tax assessments of third parties filed after February 21, 2021, were not cognizable in the Tax Court as a result of amendment to N.J.S.A. 54:3-21 eliminating subject matter jurisdiction over such appeals in the County Boards of Taxation and the Tax Court; third party tax appeals filed in the Tax Court after February 21, 2021, should be transferred to the Law Division pursuant to R.1:13-4, to be heard as actions in lieu of prerogative writs, per R. 4:69.</p> <p>(11 pages)</p>	Tax
Jan. 30, 2024	<p>SHERYL ALEMANY V. TWP. OF MARLBORO (07209-2023)</p> <p>LOCAL PROPERTY TAX – VETERAN'S EXEMPTION – ARMY NATIONAL GUARD</p> <p>Tax Court: Alemany v. Township of Marlboro, Docket No. 007209-2023; opinion by Sundar, P.J.T.C., decided January 29, 2024. For plaintiff - Sheryl Alemany, self-represented; for defendant - Lani M. Lombardi, Esq. (Cleary Giacobbe Alfieri Jacobs, LLC, attorneys).</p> <p>HELD: Plaintiff, who served in the National Guard, was declared 100% and permanently disabled due to a service-connected disability by the federal Department of Veterans’ Affairs, and was honorably released by the U.S. Army. Defendant denied local property tax exemption for her residence under N.J.S.A. 54:4-3.30 because federal Form DD-214 stated that she was released from “active duty training” and the pre-2019 precedent held that veterans training in the National Guards were not entitled to the exemption. The court found that the New Jersey Constitution and N.J.S.A. 54:4-3.30 require only “active service” in the Army; the Form DD-214 evidenced that plaintiff was in active service with the U.S. Army National Guard; and full-time National Guard duty is considered as “active service” under the federal military law; therefore, plaintiff qualified for the exemption. The term “active duty training” in Form DD-214 cannot be viewed in a vacuum and solely control determination of plaintiff’s qualification for the exemption.</p> <p>(10 pages)</p>	Tax
Dec. 22, 2023	<p>DOREEN A. SCOTT V. DIRECTOR, DIVISION OF TAXATION (10435-22)</p> <p>STATE TAXATION – EARNED INCOME TAX CREDIT – GROSS INCOME TAX – FILING STATUS</p> <p>Tax Court: Doreen A. Scott v. Dir., Div. of Tax'n; Docket No. 010435-2022, opinion by Cimino, J.T.C., decided December 22, 2023. For plaintiff – Doreen A. Scott, pro se.; for defendant – Michelline Capistrano Foster, Deputy Attorney General (Matthew J. Platkin, Attorney General of New Jersey, attorney).</p> <p>Held: In this challenge to the Director’s denial of the Earned Income Tax Credit (EITC), Ms. Scott filed her tax returns as head of household. Her husband, Robert Scott, filed as single. Since the Scotts are married and living together, Ms. Scott cannot file as head of household and Mr. Scott cannot file as single. Instead, their tax status is married, either joint or separate. The Director selected married-separate which maximizes the State’s recovery. The Scotts want married-joint which reduces, but does not eliminate, the EITC.</p> <p>The Director argues that taxpayers must file a married-joint federal return to qualify for the credit. The court rejects this contention. Further, barring any specific statutory prohibition, married taxpayers are entitled to select whether they want a tax status of joint or separate. An incorrect selection of tax status, such as head of household or single, does not preclude a married-joint return, nor allows the Director to impose married-separate status. The Scotts are entitled to the EITC, albeit somewhat reduced.</p> <p>(25 pages)</p>	Tax