



Officers, 2022-2023

Michael F. Carchia
Chair
Capital One Services, LLC

Mollie L. Miller
Vice Chair
Fresenius Medical Care
North America

Jamie S. Laiewski
Secretary & Treasurer
Charter Communications

Robert J. Tuinstra, Jr.
Immediate Past Chair
Corteva Agriscience

Arthur J. Parham, Jr.
Past Chair
Entergy Services, LLC

Amy Thomas Laub
Past Chair
Nationwide Insurance Company

Douglas L. Lindholm
President
Council On State Taxation

Directors

Madison J. Barnett
The Coca-Cola Company

C. Benjamin Bright
HCA Healthcare, Inc.

Lani J. Canniff
Ameriprise Financial, Inc.

Sandra K. Cary
LKQ Corporation

Susan Courson-Smith
Pfizer Inc.

Karen DiNuzzo-Wright
Walmart Inc.

Kurt A. Lamp
Amazon.Com

Jeffrey A. Langer
The Home Depot

Stephen J. LaRosa
Alexion Pharmaceuticals, Inc.

Toni Mincic
Lumen Technologies

John H. Paraskevas
Exxon Mobil Corporation

Michael R. Raley
VF Corporation

Patrick A. Shrake
Cargill, Incorporated

Kyle Snedaker
Conagra Brands, Inc.

Beth L. Sosidka
AT&T Services, Inc.

Archana Warner
Constellation Energy
Corporation

Emily T. Whittenburg
Nike, Inc.

Karl A. Frieden
Vice President, General Counsel
(202) 484-5215
kfrieden@cost.org

Stephanie T. Do
Senior Tax Counsel
(202) 484-5228
sdo@cost.org

Fredrick J. Nicely
Senior Tax Counsel
(202) 484-5213
fnicely@cost.org

March 3, 2023

Honorable Chief Justice Patricia Guerrero and Associate Justices
Supreme Court of California
350 McAllister Street
San Francisco, CA 94102-4797

Via TrueFiling

Re: Support of Petition for Review of *County of Santa Clara v. Superior Court for Santa Clara County (AT&T Mobility LLC Real Parties in Interest)* (Cal. Supreme Court No. S278618)

To the Honorable Chief Justice Patricia Guerrero and Associate Justices:

The Council On State Taxation (“COST”) respectfully submits this amicus letter urging the Court to grant review of *County of Santa Clara v. Superior Court for Santa Clara County (AT&T Mobility LLC Real Parties in Interest)* (Cal. Supreme Court No. S278618) (“*AT&T Mobility*”), decided by the Court of Appeal, Sixth Appellate District.

In *AT&T Mobility*, the Sixth Appellate District held that although state-assessed property is subject “to [property] taxation to the same extent and in the same manner as other property”, as provided by Article XIII, section 19 of the California Constitution (“Section 19”), such protection does not mean that state-assessed property is subject to the same tax rates for debt service imposed on locally-assessed property. Thus, the Sixth Appellate District upheld the imposition of higher property tax rates applied by the County of Santa Clara, pursuant to Revenue and Taxation Code, section 100(b) (“Section 100(b)”), to the County’s state-assessed allocated property values (e.g., 1.04% to 1.092% versus 0.202% for locally assessed property for tax years 2014-2016). *AT&T Mobility*, No. H049161 at p. 3. The Sixth Appellate District found that the County’s Section 100(b) higher property tax rates on state-assessed property did not violate Section 19, even though Section 100(b) has increasingly subjected state-assessed property to higher tax rates than locally assessed property.

The Sixth Appellate District’s decision undermines the protections Section 19 provides and leaves doubt on the precedential value of this Court’s decision in *ITT World Communications, Inc. v. City & County of San Francisco* (1985) 37 Cal.3d 859—highlighting the importance of review by this Court.

Statement of Interest

COST is a non-profit trade association based in Washington, DC. COST was formed in 1969 as an advisory committee to the Council of State Chambers of Commerce and today has an independent membership of over 500 major corporations engaged in interstate and international business, many of which directly do business in California. COST members conduct substantial business in California including owning extensive properties in the State that are both state-assessed and locally assessed. COST's objective is to preserve and promote the equitable and non-discriminatory state and local taxation of multijurisdictional business entities—a mission it has steadfastly maintained since its creation.

Clarifying Section 19's Protections is Best Suited for This Court

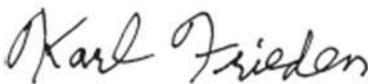
Section 100(b)'s two-part formula to determine a countywide tax rate for state-assessed property has caused significant disparity in the overall tax rates for state-assessed property compared to locally assessed property in some counties. This has resulted in the effective property tax rate for debt service of state-assessed property being more than four times the rate of locally assessed properties during some of the years at issue. *Id.* The Sixth Appellate District upheld the constitutionality of Section 100(b) and the disparate treatment of state-assessed property—finding that Section 19 only requires consistency in determining the assessed value of state-assessed property and does not require property tax rate parity.

In reaching this decision, the Sixth Appellate District found that this Court's decision in *ITT World* was not precedential, in part, because this Court's statement in *ITT World* that “public utility property [state-assessed property], after it has been placed on the local tax rolls, *be levied on at the same rate as locally assessed property*” was dicta and unnecessary to the resolution of this case. *Id.* at p. 22 (citing *ITT World*, 37 Cal.3d at p. 870 (emphasis added)).

With litigation pending in other counties on the same issue, such conclusion by the Sixth Appellate District leaves profound uncertainty on the protections provided by Section 19, and the precedential value of *ITT World*. It is important for this Court to review this case and determine whether Section 19 continues to provide property tax rate protections as it explicated in *ITT World*, requiring overturning the Sixth Appellate District's decision. Even if the application of Section 19 is limited and Section 100(b)'s disproportionate treatment of state-assessed property is permissible, it is still more appropriate for this Court to make that determination (restricting the applicability of this Court's decision in *ITT World*) and not the Sixth Appellate District.

For these reasons, COST respectfully urges this Court to grant review of *AT&T Mobility*.

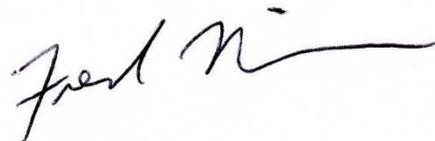
Respectfully,



Karl A. Frieden



Stephanie T. Do



Fredrick J. Nicely

cc: COST Board of Directors
Douglas L. Lindholm, COST President & Executive Director