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APPEARANCES:

Panel Lead: ALJ AMANDA VASSIGH

Panel Members: ALJ MIKE LE
ALJ ANDREW WONG

For the Appellant: STEVEN S. GLICK

For the Respondent: STATE OF CALIFORNIA
FRANCHISE TAX BOARD
PETER KWOK
DAVID HUNTER

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I N D E X

E X H I B I T S

(Appellant's Exhibits 1-8 were received at page 8.)

(Department's Exhibits A-C were received at page 8.)

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California; Tuesday, November 16, 2021

9:44 a.m.

JUDGE VASSIGH: We're opening the record in the Appeal of Glasser. This matter is being held before the Office of Tax Appeals. The OTA Case Number is 20025852. Today's date is Tuesday, November 16, 2001, and the time is 9:44 a.m. 2021 is the year, excuse me. This hearing is being conducted electronically with the agreement of all the parties.

Today's hearing is being heard by a panel of three Administrative Law Judges. My name is Amanda Vassigh, and I will be the lead Judge. I'm joined by my co-panelists, Judge Le and Wong. All three of us will meet after the hearing and produce a written decision as equal participants. Although I will conduct the hearing, any judge on this panel may ask questions or otherwise participate to ensure that we have all the information necessary to decide this appeal.

For the record, will the parties please state their names and who they represent, starting with the representatives for the Franchise Tax Board?

MR. KWOK: Good morning, Judge Vassigh. I am Peter Kwok for the Franchise Tax Board.

JUDGE VASSIGH: Good morning.

1 MR. HUNTER: Good morning, Judge Vassigh. David
2 Hunter for the Franchise Tax Board.

3 JUDGE VASSIGH: Good morning.

4 And for the representative for the Appellant, can
5 you please introduce yourself. Star 6 will help you
6 unmute.

7 MR. GLICK: I am Steven Glick, the representative
8 for the late Danny Thomas Glasser.

9 JUDGE VASSIGH: Thank you. Good morning,
10 Mr. Glick.

11 Okay. We had a prehearing conference in this
12 matter, and the parties indicated that they do not intend
13 on calling any witnesses today. The parties have been
14 emailed the electronic exhibit binders containing all
15 submitted exhibits. At this point neither of the parties
16 have objected to any exhibits. The exhibits for this
17 appeal consist of Franchise Tax Board's exhibits numbered
18 A through C.

19 Are these the correct exhibits FTB intends to
20 submit into the record? I see --

21 MR. KWOK: Yes, it is.

22 JUDGE VASSIGH: Thank you. I saw nodding heads.
23 Thank you, Mr. Kwok, for confirming.

24 This is Judge Vassigh again. And for the
25 taxpayer, Appellant's exhibits have been numbered 1

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through 8.

Mr. Glick, are these the correct exhibits your client intends to submit into the record? Mr. Glick, go ahead press star -- oh, you got it.

MR. GLICK: Yes.

JUDGE VASSIGH: Okay. Thank you.

We have two issues to be heard today. The issues to be decided in this case are first, whether Appellant is entitled to exclude capital gains derived from the disposition of inherited property in 2013 for California tax purposes. The second issue is whether FTB's assessment is barred by the statute of limitations.

As a reminder to the parties, during our prehearing conference we decided that Mr. Glick will have 5 minutes to make an opening presentation. The parties will each have 10 minutes to make their arguments, and Mr. Glick will have 5 minutes at the end to provide a rebuttal, if he chooses.

Does anyone have any questions before we move on to the opening presentations?

MR. KWOK: No, Judge.

JUDGE VASSIGH: Okay. Mr. Glick?

MR. GLICK: No objection.

JUDGE VASSIGH: Thank you. I have a question for you, Mr. Glick. Will you be testifying as to any facts in

1 this case?

2 MR. GLICK: Possibly, yes.

3 JUDGE VASSIGH: Okay. So for that purpose I will
4 swear you in so we can consider your remarks as testimony.

5 I would like to first admit into the evidentiary
6 record the exhibits that I summarized earlier.

7 (Appellant's Exhibits 1-8 were received
8 in evidence by the Administrative Law Judge.)

9 (Department's Exhibits A-C were received in
10 evidence by the Administrative Law Judge.)

11 Okay. So Mr. Glick, please raise your right hand
12 after you unmute yourself.

13

14 STEVEN GLICK,

15 produced as a witness, and having been first duly sworn by
16 the Administrative Law Judge, was examined and testified
17 as follows:

18

19 JUDGE VASSIGH: Thank you. We are ready to
20 proceed with Appellant's opening statement. Mr. Glick,
21 this is your opportunity to tell us the reasons for this
22 appeal. When you are ready, please begin your
23 presentation and any testimony.

24 MR. GLICK: I'm ready now.

25 ///

1 was not properly assessed during the four-year tax
2 limitations period.

3 JUDGE VASSIGH: Thank you, Mr. Glick.

4 Do we have in questions from my co-panelists?
5 Judge Wong, do you have any questions for Mr. Glick?

6 JUDGE WONG: This is Judge Wong. I have no
7 questions. Thank you.

8 JUDGE VASSIGH: Thank you.

9 This is Judge Vassigh. Judge Le, do you have any
10 questions for Mr. Glick?

11 JUDGE LE: This is Judge Le. I have no questions
12 either.

13 JUDGE VASSIGH: Okay. Thank you.

14 Mr. Glick, that was your opening. I wanted to
15 see if you have any further arguments you would like to
16 present on the statute of limitations issue before we move
17 to Franchise Tax Board's presentation. At this point you
18 can go ahead and unmute yourself.

19 MR. GLICK: The Franchise Tax Board has sent
20 various Notices of Proposed Assessment, and I'm claiming
21 that none of these notices, including the one last
22 submitted dated 4/22/2018, is not a bill. It is not an
23 assessment. Period. Thank you.

24 JUDGE VASSIGH: This is Judge Vassigh. Thank
25 you, Mr. Glick.

1 return was filed. There's no requirement that the FTB
2 file a tax bill or a final assessment. The only
3 requirement is that the FTB mail a Notice of Proposed
4 Deficiency. And as we can see from Exhibit C, that Notice
5 of Proposed Assessment was filed within four years of
6 FTB's receipt of the 2013 tax return.

7 And just based on that, we respectfully ask that
8 the panel sustain this action about by the FTB.

9 JUDGE VASSIGH: This is Judge Vassigh. Thank
10 you, Mr. Kwok. I do have a question for you. You
11 mentioned on Exhibit B Appellant's California income tax
12 return for 2013 that FTB had received that and that the
13 date is on the return. Can you show us where you see
14 FTB's receipt date.

15 MR. KWOK: Sure. It's that handwritten note at
16 the very top. It's somewhat difficult to read, but it
17 says 7 dash 12 dash 17.

18 JUDGE VASSIGH: Okay. Thank you, Mr. Kwok. This
19 is Judge Vassigh again.

20 Mr. Glick, I would just like to ask you -- if you
21 can unmute yourself for a moment, I would like to ask you
22 if you agree that that return was filed at that time?

23 MR. GLICK: Yes, I agree that the return was
24 filed on July 15th, 2014.

25 JUDGE VASSIGH: Okay. Thank you.

1 This is Judge Vassigh. I would like to ask
2 Judge Wong if he has any questions for Franchise Tax
3 Board.

4 JUDGE WONG: This is Judge Wong. I have no
5 questions. Thank you.

6 JUDGE VASSIGH: Thank you. And I'd like to ask
7 Judge Le if he has any questions for Franchise Tax Board.

8 JUDGE LE: This is Judge Le. I have no questions
9 for Franchise Tax Board.

10 JUDGE VASSIGH: Thank you very much.

11 We are ready to conclude. Oh, I actually wanted
12 to see if, Mr. Glick, do you have a rebuttal? Would you
13 like to represent five minutes of rebuttal?

14 MR. GLICK: I don't.

15 JUDGE VASSIGH: Thank you, Mr. Glick.

16 We are ready to conclude this hearing. The
17 record is now closed.

18 Thank you everyone for appearing today. And
19 thank you to the staff at OTA who have made sure that
20 today's web hearing ran as smoothly as possible. Thank
21 you to Ms. Alonzo for dealing with the echo in
22 transcribing this hearing. I know that was difficult. It
23 was difficult to hear it.

24 This matter is now submitted to the panel to
25 privately confer and decide the issue. We will aim to

1 send you a written opinion of our decision within
2 100 days. Today's hearing in the Appeal of Glasser is now
3 adjourned, and OTA will now adjourn for today.

4 Thank you, everyone. Have a wonderful day.

5 (Proceedings adjourned at 9:58 a.m.)

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HEARING REPORTER'S CERTIFICATE

I, Ernalyne M. Alonzo, Hearing Reporter in and for the State of California, do hereby certify:

That the foregoing transcript of proceedings was taken before me at the time and place set forth, that the testimony and proceedings were reported stenographically by me and later transcribed by computer-aided transcription under my direction and supervision, that the foregoing is a true record of the testimony and proceedings taken at that time.

I further certify that I am in no way interested in the outcome of said action.

I have hereunto subscribed my name this [!DAY OF DEPO] day of [!MONTH OF DEPO], [!YEAR OF DEPO].

ERNALYN M. ALONZO
HEARING REPORTER