

June, 2010

The 2 Main Questions

This year we are hearing two main questions from our clients....1. Why isn't my assessment going down as much as my property's value is going down? or 2. Why did my assessment go down but my taxes didn't?

There are two reasons a property's assessment doesn't go down as fast as a property's value during the current recession. One is that many assessment administrators do not want to make roll wide reductions for what they perceive to be a temporary decline in value. The second is that they feel any perceived decline in value is not supported by qualified sales data but rather is the result of forced sales or at least sales under duress like foreclosures and short sales. Assessment policy, which varies state by state, generally prohibits consideration of sales that occur under duress when setting value. However, as the significance of these sales increases and they begin to influence other market sales they can, in fact, become the market.

That being said, qualified sales do exist that reflect a decline in value. Assessors have lagged in making adjustments to their assessment rolls to reflect the value loss resulting from the recession. Taxpayers who are aggressive in reviewing and appealing their property assessments therefore stand a chance in experiencing real property tax savings. The reason becomes clear as we look at the second main question...why haven't my taxes gone down?

To start understanding the answer to this question, the basic revenue formula for property taxes can help. The formula is $L/V=TR$. Where Levy "L" divided by Value "V" equals Tax Rate "TR". Property taxes are based on the revenue requirements (approved budget) of all the taxing bodies that provide services to your property (such as the library, school district, sewers, fire district, etc) "L" divided by the value of all taxable property in that taxing jurisdiction (commercial and residential) known as the enrolled value "V", to determine the tax rate "TR".

Once approved by an elected board, the Levy is a given. The value is known and determined by the tax assessor. The tax rate is a variable based on the relationship between the levy and value of all taxable properties. Clear as mud?? Once the budget "L" is approved whether the enrolled value "V" is \$1m or 70% of \$1M the same amount must be collected to cover "L". That is where the Tax Rate comes in. It varies to ensure that the property taxes collected cover the Levy that is budgeted. That is why assessors are not quick to make wholesale changes to the Assessment roll during what they consider to be short term changes in value.

Maybe a few examples will help. Let's talk about Anywhere, USA. Taxpayer Jones has a property included in the enrollment for the local taxing jurisdiction. Example A takes place prior to 2008. Example B is current...say in the recession.

Example A

Levy-- \$50,000,000
 Value--\$2,000,000,000

Equals the Tax Rate--.025

Property A—Example A

Property Value-- \$500,000
X .025 Tax Rate
 Property Taxes \$12,500.00

Example B

Levy--\$50,000,000 (taxing districts don't want to give up any funds)
 Value--\$1,400,000,000 (the average decrease in real estate value -30%)

Equals the Tax Rate--.0357

Property A—Example B

Property Value-- \$350,000 (again avg. decrease in RE value -30%)
X .0357 Tax Rate
 Property Taxes \$12,500.00 (rounded)

You can see that although the value of Taxpayer Jones' property went down by 30% his property taxes didn't take a corresponding dive. This tells you two things.

The first is that the place you can have a substantial affect on your property tax burden is at those budget meetings held by your local taxing bodies. Encouraging them to budget responsibly and cut costs will affect the levy which in turn will affect your tax burden. Given recent behavior by most taxing jurisdictions this might not produce the best results for you. So, you go to plan B (not to be confused with Example B!).

Plan B is having an aggressive comprehensive property tax management program in place. While there are sales out there that indicate a decline in value a high proportion of those sales are foreclosures or short sales, in other words sales under pressure, which the taxing authorities will not accept as evidence of Market Value until such time as those sales become the market. This can be a difficult argument to accept as a taxpayer when lenders are taking this under pressure segment of the market into consideration.

It is also true that there are many arms length sales in the market that reflect declining values. Using these as a basis to appeal your property assessment can result in real tax savings. Vacancies, rent concessions and declining income are also considerations.

Controlling your property taxes is an important tool to help you survive the current economic climate. Put your plan in place today.



Detroit Taxpayers Get Taken to School

The Michigan Supreme Court recently ruled that \$259 million in property taxes illegally collected from Detroit taxpayers does not have to be refunded.

The case came from a mistaken 18 mill tax levy made by the school district in 2002, 2003, and 2004. Voter approval was required for any school district levy 18 mills or more. The school district thought they only needed approval for levies over 18 mill. So, they continued that levy till they discovered their mistake in 2005.

Briggs Tax Service of Detroit filed a class action suit demanding the district return the money to taxpayers. The Supreme Court unanimously disagreed on the grounds the Briggs did not file the complaint within a required 30 day time frame.

As their ruling explained "There is no doubt that a mistake occurred in this case. DPS levied a tax without the requisite voter approval. This resulted in wrongful assessments that taxpayers paid in full. However, we conclude that this mistake does not constitute a 'mutual mistake of fact' and therefore doesn't warrant a longer limitations period for refund."

Go figure!!

Vacancy Woes

Landlords in Chicago are facing a tough time. Vacancy rates hit 17.1% earlier this year. According to CB Richard Ellis Inc. demand for Chicago office space was down by more that 700,000 sq ft during first quarter 2010.

Vacancy, along with rent reductions, decreasing expense recovery, and rent concessions impacts the value of commercial property. These factors can easily escape an assessor's attention. So, first carefully document any issues you are having. Then, second, get a thorough review of your assessment to make sure these factors have been considered.

In today's environment an active property tax reduction program is one key to survival.

Savings Ticker...Savings Ticker...Savings Ticker...Savings Ticker...Savings Ticker...

Here's a small sample of the savings we've been able to secure, in the last quarter, for our clients.....

- \$96,532 for a large warehouse in Wisconsin
- \$67,953 one year savings for a mid-size service garage in Illinois
- \$42,491 for a large manufacturing plant in Michigan
- \$15,934 one year savings for a retail strip mall in Illinois
- \$10,165 for a retail store in Georgia

CA Revises Change of Ownership Requirements

Legal Entities have always been required to file a Statement of Change of Control and Ownership within 45 days of the date of change in that control or ownership. Prior to January 1, 2010 the legal entity was subject to a penalty only if it did not timely respond to the Board of Equalization's written request for a filing. SB 816 now establishes a penalty for those legal entities that do not independently self-report a Change in Ownership or Change of Control within 45 days of the event date.

In addition, automatic removal of the penalty for late compliance no longer exists. Now the offending party must apply in writing seeking penalty abatement for reasonable causes within 60 days of receiving the notice of penalty.