

# property Taxfacts

News and Views

Published by Ennes & Associates, Inc.

March, 2007

## *Shouldering the Burden*

Business paid \$554 billion in state and local taxes in FY2006 according to a recent report prepared by Ernst & Young in conjunction with the Council on State Taxation (COST). This amount accounted for 45% of total taxes collected by all state and local governments in the United States. Some other key findings:

- State and local business taxes increased by 10.2% in FY 2006.
- Over the last four years, state and local taxes on business have risen faster than total state and local taxes. As a result, businesses paid 49% of the additional taxes collected from FY2002 to FY2006. The cumulative growth in business taxes during this period exceeded the cumulative growth of non-business taxes by more than 7 percentage points. That means the tax burden is shifting towards business, not the other way around as some politicians would have us believe.
- Property taxes on business property totaled \$205 billion in FY2006, equal to 37% of total state and local business taxes. The property tax and a significant portion of sales taxes paid by businesses are taxes on capital invested within a state.
- The composition of total state and local business taxes paid varies by industry, with manufacturing and transportation continuing to pay significant property taxes and sales taxes on business purchases.

*Why does a slight tax increase cost you two hundred dollars while a substantial tax cut saves you thirty cents?*

Property taxes, the largest component of state and local business taxes, accounted for 35% of the total business tax increase between FY2002 and FY2006. After averaging less than 4% growth from 2001 through 2003, property taxes have increased by 10% annually for the past 3 years.

Think there is nothing you can do about your property taxes? Think again. We help clients every year realize this is a controllable expense that affects their bottom line. We can help you too. Just call.

## When Mother Nature Unleashes Spring....

Just about when the flowers start peaking out of the frozen ground and the cherry blossoms grace Washington DC streets, Mother Nature starts to unleash her fury in the form of tornadoes, wind storms, flooding and earthquakes. We don't wish any of those disasters on anyone ...but if you should sustain damage from them we want you to know there may be property tax relief to make it more palatable. Many taxing jurisdictions will grant temporary relief to aid in recovery if you apply. There is a caveat: it isn't automatic.

So, when the winds are finished and the rivers are back within their banks, be sure to let us know if you suffered any damage. We can work with local taxing bodies to see if you are eligible for relief.



Keep in mind this relief may also be available if you suffer damage from casualty causes such as fire, electrical problems, building damage and hail. If it affects the value of your property let us know as soon as possible.

## Going Retro in Illinois

Illinois Taxpayers have asked the United States Supreme Court to determine if federal due process standards were violated by the retroactive application of a 2005 Illinois law to validate a county's 1997 road tax levy that was being challenged by the taxpayer's in court. An Illinois Appellate Court handed down a decision holding that the taxpayers had raised a genuine issue as to whether the levy had been properly authorized. While that decision was on appeal to the Illinois Supreme Court, the Legislature amended state law to remedy the technical problems with the manner in which the levy had been authorized.

The state court ruled that the taxpayers' due process rights weren't violated by applying the amendment retroactively since there had been no final decision in the taxpayers' favor on their refund claim at the time of the legislation. This effectively eliminated the taxpayers' challenge.

The taxpayers have asked the US Supreme Court whether the federal Due Process Clause prohibits a retroactive, substantive change of state law from (1) destroying a claim for a tax refund initiated seven years prior to the effective date of the statutory change, and (2) destroying the clear and certain statutory post-deprivation remedy for contesting taxes with the result that meaningful backward-looking relief from illegal taxation is unavailable.

## California Clarifies

The California State Board of Equalization recently confirmed that a taxpayer can transfer a base year value from property taken by governmental action to a comparable replacement property located in another county. A property owner is not limited to finding a replacement property in the same county.

They clarify that Article XIII A, section 2, subdivision (d), of the California Constitution provided that change in ownership does not include the acquisition of real property as a replacement for comparable property if the person acquiring the property has been displaced from the property replaced by eminent domain proceedings, by acquisition by a public entity, or governmental action that has resulted in a judgment of inverse condemnation. Property is comparable if it is similar in size, utility and function.

## Who's Minding Your Store?

Last year Ennes & Associates, Inc saved its clients millions in property tax dollars. If you don't have us watching your property taxes, what are you waiting for?

Very few corporations have the size of portfolio necessary to maintain a staff of skilled professionals to handle all the property tax management functions. Most corporate taxpayers handle the compliance function (paying the bills) internally. However, many times they ignore the evaluation and control functions. The evaluation function involves making the determination as to whether an assessment is fair and equitable. It includes the ability to reasonably assess whether an appeal is warranted and can be economically resolved.

The control function involves determining if assessments are fair and equitable, filing appeals, monitoring tax payments to eliminate late fees, securing exemptions and working with taxing authorities to set the assessments of new properties at an acceptable level.

In addition, taxpayers with property in states that tax business personal property are required annually to timely file a return

listing all of their taxable assets. Many times these filings require extensive regulatory and valuation knowledge, familiarity with both real and personal property assessments, the ability to differentiate between taxable, non-taxable and exempt assets and the proper classification of those assets for property tax purposes.

There is a limited period of time in which to challenge the taxable value of a property. If not challenged timely the taxpayer can find itself saddled with an inequitable, excessive or erroneous assessment until the next reval...which in some cases is 8 plus years! It helps to have someone who knows the ins and outs of the appeal process, is familiar with the various state regulatory aspects, and has an intimate knowledge of the three grounds for appeal; valuation, error and equity.

So, if you aren't already managing all three of the property tax functions, compliance, evaluation and control our advice is you should start. That is the only way you can assure that you are paying only your fair and equitable share of the property tax burden. Don't know where to start? Call us.

### New Jersey Legislates Property Tax Reform.

On March 15, the New Jersey Governor signed property tax reform measures into law including the establishment of an independent Office of the Comptroller to oversee government spending. Included in the legislation are a new level of accountability for school districts, a reorganization and consolidation of Local Taxing Units and a mandatory forfeiture of retirement benefits and imprisonment for public officers or employees convicted of certain crimes.

### ***Wisconsin Incentives Discussed***

On February 26, the Wisconsin Dept of Revenue released a report that summarized various corporation property, franchise, sales and use and income tax incentives available to businesses operating in the state. Some incentives discussed are: research credits, zone-based credits and property tax exemptions. The report is titled State Tax Incentives for Economic Development.