

property Taxfacts

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Earth calling Assessors....Earth calling Assessors.....

Don't you sometimes wonder if your local assessor lives on a different planet? How could they possibly be showing higher values for your property when everyone knows property values have been freefalling over the last 12 months? For example, in Montana which just had a statewide reassessment, commercial values rose an average of 35% while residential values went up 56%. Well, in many states it has more to do with the time lag between the sales comps they use to develop their assessment tables and today's conditions than it does with their residence in the real world.

In many states, like Illinois, tax bills are issued in arrears. Therefore the bill issued and to be paid in 2009 is for 2008 property taxes. The value shown on these bills reflects a property's value as of the assessment date for 2008 which was January 1, 2008. It certainly was a different world those 15 short (or have they been really long?) months ago. This disparity works in a taxpayer's favor when the market is good and values really are rising. However, in this economy businesses are suffering higher vacancy, less profit and a higher tax bill. Yikes!

So what to do? We say appeal. However, the amount of appeals being filed is at an all time high. The Wall Street Journal reported that 15,000 residents in St. Tammany Parish Louisiana had requested review of their 2008 tax bill as opposed to only 500 last year. Taxing jurisdictions that have financial problems of their own are overloaded and less likely to give relief. You need to plan...and you might need help. Plan so that your appeals are in on the deadline so they are at the front of the line. Plan to have all your ducks in order so the assessor can clearly see your point thus saving them time. Plan your arguments clearly and concisely using all three approaches to value.

Is There No Justice?

A taxpayer in OH admitted to filing a personal property return with over \$1 billion in fictitious assets on it in order to cover up income statement fraud.

He later filed to get a refund on the tax overpayment on those fictitious assets. The tax commissioner asserted he was prohibited from seeking a refund because the excessively high taxes were not the result of a good-faith error or mistake.

The court was compelled to allow the taxpayer to pursue his case since no statutory, common law or equitable remedies were available to the Board of Appeals or the tax commissioner to prevent the refund. Go Figure!

If you don't have the time or inclination to do this, get an advocate that will protect your rights, represent your properties and do it all timely. Don't wait. Missing deadlines means missing opportunities to affect your bottom line savings.

Cash Crunch Fallout: Sale-Leaseback Deals Increase

Businesses of all types, under pressure to quickly boost liquidity, have stepped up their push for sale-leasebacks as an avenue to monetize their assets. A sale-leaseback is an arrangement in which a finance company purchases equipment from the business owner. The finance company then becomes the equipment owner, and leases the equipment back to the original owner, which continues to use the equipment without disruption.

A sale-leaseback arrangement allows a company to acquire and use equipment while conserving its cash flow and improving its balance sheet. Because the equipment is leased it is not included on the company's balance sheet and that can improve the company's debt-to-equity ratios and general credit position.

Impact on personal property tax compliance

When the assets involved in a sale-leaseback arrangement were company owned the reporting for personal property tax compliance was straight forward. As the owner of the assets the company would be responsible for reporting the assets by filing an annual personal property return and paying the personal property taxes. However, once the equipment is sold and leased back the responsibility can lie with either the lessor or the

lessee. This should be spelled out in the terms of the lease agreement. However, despite the terms of the lease agreement many taxing jurisdictions require that the owner of the equipment report it for assessment purposes. For this reason the lessor will typically report the equipment, pay the taxes, and then invoice the lessee.

When the responsibility for tax compliance shifts to the lessor it can have an impact on the assessment and the amount of taxes due. Personal property assessments are derived by applying depreciation and index factors to the reported cost and year of the equipment so the calculated assessment will change with any change in the reported cost basis. After completion of the sale-leaseback the lessor is likely to report the equipment at their acquisition cost basis. Depending on the sale price or if the assets have been stepped up this could lead to an increase in tax. This can also cause conflict with taxing jurisdictions that require the historical cost be used. This is especially true if the change in cost basis leads to a significant reduction in the taxes due.

To prevent these complications the company may find it useful to maintain historical cost records for property tax compliance purposes and to continue to report the sale-leaseback assets as if they were owned. To do this you will have to contact the leasing company and get approval to report the leased assets and also to verify that the lessor will not be reporting them to avoid the possibility of double taxation.

Another possible complication resulting from the change in ownership is the possible loss of existing abatements and exemptions. Most manufacturing exemptions are granted to manufactures for investing in new machinery and equipment. Generally only the specific items of equipment as approved in the application are eligible for exemption. These assets then need to be reported on separate schedules in order to receive the abatement. Because sale-leaseback transactions involve the sale of equipment already in place it will be necessary to verify if any of the equipment being sold is part of an existing abatement. If so then you will need to work with the lessor and taxing authorities to make sure that the assets are reported in a manner that maintains the existing abatement.

Not Turning a Deaf Ear

Many states have not turned a deaf ear to the problems of property owners. They want to act to offer some relief. The debate has been how to react. What type of legislation works best to control property taxes? Most of the current plans on the table have as their basis one of the two most popular methods of control...limiting assessments and limiting local government revenue. Both methods have been enacted in the past to attempt to control the growth of property taxes. Here are some things to consider when the debate comes up in your state.

Assessment Limits

Under an assessment limit plan legislators would freeze real estate assessments for homes and businesses at a certain level, say 4%, or the rate of inflation whichever is less. Then when a property is sold or transfer the property would be reassessed to current market value. Assessment limits need a constitutional amendment because they remove uniformity from property taxation. Some of the problems with this approach are:

1. Tax caps tend to stifle competition when selling properties because new owners are taxed at a much higher rate than current owners.
2. Owners of rapidly appreciating property reap the benefits while the burden is shifted to those owning slowly appreciating or decreasing in value properties.
3. Large disparities are created between owners of comparable properties.

Spending Limits

On the other side of the coin you have government spending. This method attempts to limit the increase in property tax revenue needed to support an approved budget. The Georgia Association of Property Tax Professionals in a recent white paper on the subject explain it this way:

“Property tax is a mathematical formula involving three numbers: the total dollar of the tax digest (the value of taxable property), the millage rate, and the property tax revenue needed to support the approved budget. It’s clear that by artificially limiting the tax digest one only has to increase the millage rate to achieve the desired result for the revenue number...Therefore, it is also clear that the only meaningful way to control property taxes is to place a limit on revenue growth, which by mathematical necessity will limit the millage rate.”

Property Taxes

While we are addressing controlling property taxes lets not forget the advantages of a property tax vs say a sales tax increase. The property tax is a value based tax. Therefore, it is a stable source of revenue for local governments. Revenue based taxes, like a sales tax, rise and fall with the fortunes of the economy. Today, local governments would be in deep trouble if local services were based solely on revenue based taxes. In addition, property tax is locally approved, collected and spent. There is no state or federal government collecting it and giving it back as they see fit.

When the issue of controlling property taxes arises in your state be sure to do your homework, assess which method they are proposing and contact your state legislator to oppose or support. Don’t be lulled into thinking all methods are created equal and therefore will give equal results. Be careful not to get caught up in one of the many shell games that just change the type of tax paid and who pays it. All too often it is a game of tag where if you’re not careful you’re “it”.



Luck of the Irish to you!