

June, 2004

# What's Happening??

*Every year we like to bring you up to date on property tax issues, both real and personal, that might have a bottom line affect on your tax situation. There have been a number of changes as taxing jurisdictions struggle with budget deficits, school budget crisis and taxpayer revolts. What you will see, overall, is a struggle to make ends meet while keeping taxpayers happy...sometimes an impossible task.*

*First we will tell you about a few general changes that affect taxpayers in most states. Then we will narrow the focus to changes in particular states. Feel free to call E&A if you have any questions about how a certain change might affect you.*

## IN GENERAL—

Revaluation/Change in Value.... while this is not a new concept we are seeing a more aggressive approach on the part of assessors across the country. They are looking harder, more often and with less discrimination. You have to be aware of the assessment notices that might come across your desk. Why? Because a change in assessment will, in a majority of cases, result in an increase in taxes.

Reviewing those assessment notices on a timely basis is essential. There is usually a very short window of opportunity to appeal the changes if warranted. You cannot wait for the tax bill to be issued because that is too late to do anything for the current year and in some states you don't get another opportunity to appeal until another revaluation. Which could be eight years down the road!

Intervention...again this is not a new concept just one that is becoming more and more popular as mostly school districts fight to make ends meet. An intervenor is a third party that steps into an appeal action after there is already a negotiated settlement between the taxpayer and the assessor. Intervenors can also challenge an assessment placed on a specific property by the assessor if they feel the assessor failed to put a high enough value on the property.

The taxing authority is required to notify taxing bodies when appeals/settlements of a predetermined amount are made. The taxing bodies then have a specified period of time to "intervene" with the settlement.

When they do this, in the best case it adds a third party to the renegotiation of the settlement. In the worst case, it ties the settlement up until the case can be heard by the court which could take anywhere from a couple of months to a couple of years.

Many times these watchdog groups attempt to fight a negotiated settlement or to increase an assessment using sales that involve related parties or other non-arms length transactions neither of which is a sufficient reason to change an assessment in most taxing jurisdictions. However, this can cause a taxpayer additional time and dollars to defend against this "intervention" on what was a fair and equitable assessment from the beginning.

## SPECIFICALLY—

Ontario, Canada—a recent regulatory change defines Large Industrial properties as those being occupied by a single occupant *or* measuring in excess of 125,000 sf. The change is retroactive to 1998.

In addition, the government proposed to cancel the scheduled reassessment for 2005. Property assessments for 2005 will be based on the same valuation data as 2004.

### **This isn't Kansas anymore Toto!!**

Reminiscent of the Wizard of Oz many businesses got blown off course this spring when tornados and ferocious storms racked the middle and southern states. In addition, rain and windstorms hit both coasts. Property damage was in the billions. Many states passed legislation that provided relief on a temporary basis to those suffering losses due to these natural disasters.

If your property was damaged by any natural disaster such as a tornado, flood or fire be sure to alert Ennes & Associates. We can then assure you obtain any property tax relief as might be appropriate.

Don't rely on automatic application of the relief. Confusion resulting from the disaster or an isolated event may prevent the assessor from applying full benefits to your case.

California-- An Initiative campaign designed to split the property tax roll and impose a 55% increase in taxes on commercial property that was scheduled for the November ballot has been scuttled. The decision came after taxpayer groups publicized a huge flaw in the initiative that could also have resulted in higher taxes on residential land.

The initiative would have earmarked about \$7 billion in higher taxes on commercial property for early childhood education and public schools. The drafting mistake, based on State Board of Equalization statistics, could have added \$3.5 billion from taxes on land where single-family homes are situated.

Rhode Island—Rhode Island law has been amended to allow classification of property for property assessments. Both the Town of Scituate and the City of East Providence have been added to the growing number of communities to elect this method of assessment.

Presently all residential and commercial property is taxed at the same rate. Classifying properties allows a municipality the right to tax different property types at different levels. This can result in one class of property paying a higher share of the tax burden than another. Typically this type of assessment system has resulted in commercial properties carrying that higher portion.

Georgia-- The state has amended the enterprise zone criteria, for purposes of the jobs credit, enterprise zone property tax exemptions and local occupational tax and regulatory and business fee abatements. Georgia has also increased and expanded the jobs credit, available against Georgia corporate and personal income taxes for business in less developed areas.

HB 984, Laws 2004, (effective May 17, 2004 and applicable to tax years beginning after 2003) amend the enterprise zone criteria. An area is no longer required to have a level of development at least 20% lower than the development activity

within the local governing body's jurisdiction to be considered underdeveloped. General blight within an area is evidenced by the inclusion of any portion of the nominated areas in an urban redevelopment area for which an urban redevelopment plan had been adopted by the governing bodies.

In addition, the maximum jobs credit that may be claimed by a taxpayer in a single taxable year is increased to 100% from the previous 50% of the taxpayer's Georgia corporate or personal income tax liability that is attributable to income derived from operations in Georgia during that taxable year. The Georgia Commissioner of Community Affairs also has new guidelines for designating an area with "less developed status".

In areas determined to be suffering from pervasive poverty, credits may be claimed by any lawful business and are not limited to business enterprises. For credit eligibility the previous requirement of 30% of new jobs created having to be held by residents in the less developed area has been changed. Now there is no restriction on who is employed.

Regarding Personal Property in Georgia, a new provision was enacted that requires the county board of tax assessors to issue a notice of renewal to the taxpayer for a Freeport personal property tax inventory exemption by January 15 of the next year *if* the Freeport exemption was granted for the present tax year.

Michigan—You may have noticed some changes in your 2004 personal property assessment notices in Michigan. This year "Leasehold Improvements" must be separated from the regular personal property assessment. In some cases the Assessor may also assign the leasehold improvements a parcel number resulting in a separate bill.

The state has also appropriated funds for local governments to conduct personal property audits. If you receive notice that you might be audited contact E&A immediately

## Markin' Time

The old saying goes "there is nothing certain in life except death and taxes". And while you might cheat the grim reaper for a couple of extra years or months you better not fool around with the Tax Collector! A number of taxpayers in Illinois, Louisiana, Michigan and Connecticut found that out when their tax appeals were decided on the issue of the timely payment of taxes. Here's what happened in Illinois.

The tenant taxpayer of a commercial retail operation filed an appeal. The appeal was successful and the tenant was looking forward to a large multi-year tax refund. Once the settlement was concluded, however, the County States Attorney filed that the Court had no jurisdiction since the taxes were not paid timely. The tenant cried foul! He produced evidence that he had indeed made timely tax payments to the landlord as provided for by his lease. Unbeknownst to him, however, the landlord had failed to pay the taxes to the County within a 60-day period from the date the taxes were due. So, the Court upheld the ruling and the tax liable tenant was unable to secure a refund.

The moral of the story is...if you are a tax liable tenant try to arrange to pay your taxes directly to the Taxing Authority. If that is impossible put into place a monitoring system. If you're an owner, make the tax payment timely. It could cost you if you don't!



Have a Happy and  
Safe  
Fourth of July!!