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Property Tax Update

It's too bad for the middle income person. They earn too much to avoid paying taxes and make too little to afford paying them.

It's strange how a person with no sense of humor can come up with such funny answers on his/her tax return.

When making out your tax return, it's better to give than to deceive.

I hate junk mail . . .and that includes the tax forms they send me.

When it comes to income tax, most of us would be willing to pay as we go if we could only catch up on where we've been.

An income tax return is like a girdle. If you put the wrong figure in it you are likely to get pinched.

Income tax is Uncle Sam's version of "Truth or Consequences."

After a man pays his income tax, he knows how a cow feels after she's been milked.

PTA

PROPERTY TAX UPDATE

Property Tax Assistance Co., Inc. ❖ 16600 Woodruff Ave., Bellflower, CA 90706 ❖ 562-920-1864 ❖ www.property-taxes.com

SUMMER

2011

Contingent Fees Under Attack!

David Gangloff Jr. Esq, CEO & Principal

This bill, if eventually passed, will bring true hardship to many taxpayers in the State of California.

Senator Lois Wolk from the 5th Senate District of California has introduced legislation to ban all contingent fees in tax matters in the State of California. Senator Wolk introduced SB 342 on February 15, 2011 and as introduced, it was a "spot" bill, a bill that had little substantive content. Senator Wolk amended SB 342 just days before its first policy committee hearing.

The bill was sponsored by the Franchise Tax Board and originally dealt with attorneys fees when a litigant prevailed against the FTB. Senator Wolk amended the bill to prohibit all contingent fees for any tax matter in the State of California.

SB 342 was heard on April 27 before the Senate Governance & Finance Committee. The measure passed 7 Aye, 2 No, and was referred to the Senate Appropriations Committee. The bill passed along largely party lines with all Democrats voting yes and one Republican crossing the aisle and voting yes.

The bill would prohibit contingent fees on any matter involving state tax law, including controversies before the State Board of Equalization, Franchise Tax Board, and local assessment appeals boards.

According to Senator Wolk, "In today's fiscal crisis, state and local governments across the country have been forced to ask citizens for higher taxes and enacted significant cuts in public services. We recently enacted billions of dollars in cuts, with several billion more on the horizon, often requiring sacrifices from the most vulnerable among us. SB 342 provides a way to make the tax system more honest by taking away the incentive for unregulated consultants to seek aggressive tax returns on a contingency fee basis."

According to the legislative staff analysis of SB 342, tax practitioners are barred from taking contingency fees when practicing before IRS under Circular 230, and certified public accountants face restrictions on their fees in specific circumstances under state law.

"However, sophisticated cottage industries of non-accountant tax consultants have grown considerably in recent years, offering to amend a taxpayer's previous state income tax returns seeking refunds of previous taxes paid by claiming tax credits not included on the taxpayer's original return," the analysis said. "Additionally, consultants assist taxpayers protesting an assessor's valuation of his or her property by pursuing appeals seeking to reduce the value with county assessment appeals boards."

The legislative staff analysis continues, "Many taxpayers prepare their tax returns unaware of many benefits to which they're lawfully entitled, such as Research and Development and Geographically Targeted Economic Development Area credits. Documenting eligibility, filing amended returns, or challenging an assessor's valuation can be time consuming and costly, often too much so for smaller businesses and individuals, who can only afford to pursue these benefits using a consultant willing to work on contingency. SB 342 would cut off a means for taxpayers to reduce their taxes to only that level that they truly owe under the law by ending contingency fee arrangements."

After the hearing before the Senate Governance & Finance Committee, the Consumer Attorneys of California requested the measure be brought before the Senate Judiciary Committee and a hearing was scheduled for May 3, 2011.

On May 2, Senator Wolk sensing she did not have the votes to get the bill out of the Senate Judiciary Committee decided to pull the bill from further consideration by the Senate Judiciary Committee. The bill has now become a two-year bill while the Senator attempts to garner support.

Continued.....



Inconsistent Definitions for Semiconductor Manufacturing Equipment

Travis Carlson Tax Consultant

In December 1987, Board staff met with county assessors and industry representatives to discuss the valuation of certain semiconductor manufacturing industry assets. In the meeting, it was decided that a study of the industry was warranted to determine the accuracy of valuation methods employed in valuing the assets of the industry. After selection of an independent contractor (Author D. Little) to conduct the study, the first working meeting with the contractor was held September 12, 1988. Since the contractor was not able to complete the study prior to the 1990 lien date, the Board adopted valuation factors for semiconductor manufacturing equipment using the best data available to staff.

In 1992, the contractor completed the study. The issues were numerous and complex, and after discussions at several Board meetings, the Board adopted the study's recommended valuation factors for semiconductor manufacturing equipment. In 1994, the Board adopted updated valuation factors for semiconductor manufacturing equipment.

The original factors are based the following categories of assets:

- *Design Automation
- *Environmental Control Systems
- *Wafer Fabrication
- *Discrete Assembly
- *Test Equipment

The Author D. Little Study ultimately found that these categories should be combined into a composite "Machinery and Equipment "asset category for taxation purposes because virtually all individual semiconductor manufacturing equipment categories displayed have similar useful lives and value trends. In 2008, The Board of Equalization (Board) redefined Semi-Conductor Manufacturing Equipment as:

- 1) Equipment used in a clean room for the fabrication of semiconductor chips
- 2) Test equipment used in the manufacturing and research and development environment and to test semiconductor manufacturing equipment.
- 3) Fixtures in place to support a semiconductor fabrication facility

The new definition has two major draw backs: 1) fabrication of semiconductor chips refers only front end wafer chip manufacturing. 2) This requirement limits companies within the semiconductor industry from qualifying for the Percent Good Factors as only a handful manufacture wafer/chips in the U.S. County Assessors requires all equipment used to produce semiconductor devices be located within its jurisdiction:

*Santa Clara County for example, defines Semiconductor Manufacturing Equipment within Santa Clara County as: 1) equipment for the manufacture or development of (wafer/chips) and 2) all equipment necessary for the manufacture of semiconductor devices.

The Inconsistencies between The Board and County Assessors definitions further complicate the assessment process. In my opinion, Author D. Little categories better define the different segments of the semiconductor manufacturing equipment industry. If these categories represent any part of your company's activities in California, it is recommended to check with the Assessor's Office on which Percent Good Factors are currently used to value your Semiconductor Manufacturing Equipment.



Quotes

The strength of a family, like the strength of an army, is in its loyalty to each other.
—Mario Puzo

The biggest disease today is not leprosy or tuberculosis, but rather the feeling of being unwanted.
—Mother Teresa

When work is a pleasure, life is joy! When work is a duty, life is slavery.
—Maxim Gorky

Cooking is just as creative and imaginative an activity as drawing, or wood carving, or music. And cooking draws upon your every talent—science, mathematics, energy, history, experience—and the more experience you have, the less likely are your experiments to end in drivel and disaster. The more you know, the more you can create.
—Julia Child

A person without a sense of humor is like a wagon without springs. It's jolted by every pebble on the road.
—Henry Ward Beecher

It is better to have enough ideas for some of them to be wrong, than to be always right by having no ideas at all.
—Edward de Bono

A good boss makes his men realize they have more ability than they think they have, so that they consistently do better work than they thought they could.
—Charles Erwin Wilson

Property Tax Update

California Real Property Values Continue Declining

Chris Larsen, Tax Consultant

I'll give you the bad news first. As a part of the ongoing nationwide recession, commercial and residential property values are not recovering as quickly as we all hoped. In fact, current market value statistics indicate that in many jurisdictions commercial real property values have not started to recover at all. According to Moody's/REAL Commercial Property Price Indices, March 2011, commercial properties values in Southern California are still down significantly from their peak in 2007. On average, the values have fallen 17.5% for apartments, 27.7% for industrial properties, 46.0% for office, and 22.8% for retail (as of January 2011).

Furthermore, any property taxes that you pay are based on the value of the property, as determined by the local Assessor's Office. In some jurisdictions, Assessors have been monitoring and actively reducing real property assessments. Unfortunately, many properties are not reduced enough, or are overlooked entirely. This means you could be paying property taxes based on an unfair assessment.

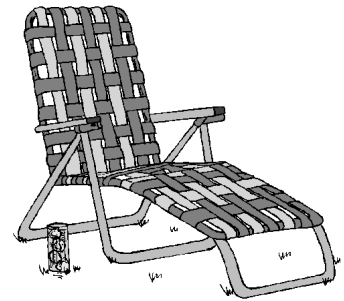
Now for the good news. California law permits a temporary reduction in the assessed value of real property when the current market value of the property has declined below the value of the property assessment. In order to be eligible for a potential property tax reduction, you must file an Application for Changed Assessment with the local county Assessment Appeals Board. This appeal will require the Assessor to reexamine the market value of the property.

Each county in California will begin accepting appeal applications on July 2. For most counties, appeals must be filed by November 30. However, appeals must be filed by September 15 in Alameda, Inyo, Kings, Orange, Placer, San Francisco, San Luis Obispo, Santa Clara, Sierra, and Ventura counties.

The Real Estate Tax Division of Property Tax Assistance Co., Inc. has been successful in appealing many real estate values since the peak in 2007. We therefore, are encouraging our clients, whether they are the landlord or the tenant responsible for payment of the taxes, to consider filing appeals to preserve their rights to review the values.

A perfect summer day is when the sun is shining, the breeze is blowing, the birds are singing, and the lawn mower is broken.

James Dent



Continued from the front page....

Editor's Note:

It seems as if the Senator is more interested in raising revenue by any means possible including forcing taxpayers to over pay their taxes rather than the fair administration of the tax laws. This bill, if eventually passed, will bring true hardship to many taxpayers in the State of California. Taxpayers whose primary business is not learning California's complex taxing system often rely on consultants to help them navigate the tax structure in a cost effective way. Many taxpayers enjoy the benefits of having the consultant assume the risk of a tax case and are willing to pay only for a positive result. If this bill passes, taxpayers will no longer be able to have the consultant take the risk of an unsuccessful case. Taxpayers will have the choice to shoulder the risk themselves or simply overpay their taxes. We urge you to contact Senator Wolk and your legislators and let them know that this bill is not good for California business.

Senator Lois Wolk
State Capitol, Room 5114
Sacramento, CA 95814

TOOTING OUR HORN!

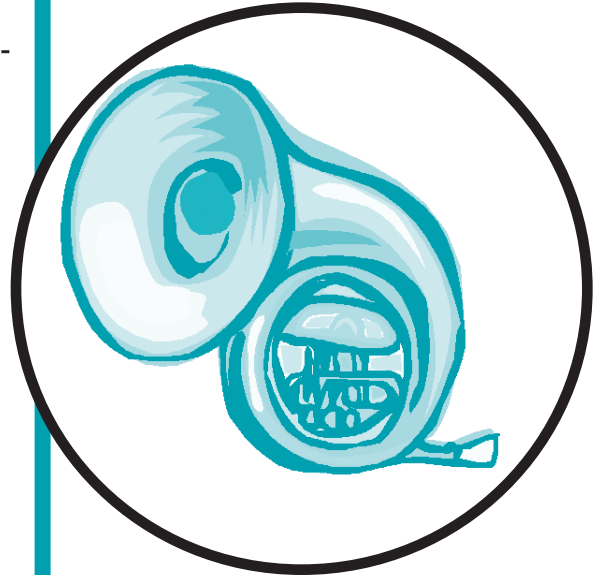
Although this is an informational newsletter, we would like to take the opportunity to brag about a sampling of our successes, from various industries, in the last quarter. These are a few examples of the refunds that our clients have received from the county, due to our work.

Personal Property

Building Material	\$69,709.
Commercial Printing	\$20,659.
Concrete	\$328,460
Communications Consulting	\$100,287
Communications Services	\$312,188
Food Manufacturing	\$870,196
Information Technology	\$13,779
Leisure	\$21,996
Lumber	\$20,361
Machinery Manufacturing	\$50,092
Packaging and Container	\$31,313
Paper Mill	\$111,160
Race Track	\$403,779
Semi-Conductor	\$32,709
Surgical Supplies Mfg.	\$40,284
Wire & Cable Mfg	\$25,015

Real Property

Cold Storage	\$351,616
Industrial Properties	\$168,330
Multifamily Properties	\$734,661
Retail Properties	\$318,739
Shopping Center	\$187,013
Vacant Land	\$75,379



May the holes in your net be no larger than the fish in it.
~Irish Blessing



TaxTidbits

Roger Bacon, et al. v. County of Los Angeles, et al. Class Action - Bacon v Los Angeles County

The attorneys that have been representing taxpayers in the class action lawsuit to recover statutorily prescribed interest are optimistic that the case is finally going to come to a close. There was a hearing on June 3, 2011 to receive final approval from the judge. The Court heard arguments and took the case under submission. The Court has 90 days to render a decision.

www.losangelescountypropertytaxrefundsettlement.com

Duplication of Refrigeration Costs

Gilbert Arciba, Sr. Tax Consultant

Recently, I completed appeals for a taxpayer who was being assessed for refrigeration costs on both their real and personal property assessment. The taxpayer operates several cold storage warehouses in Los Angeles County. Initially, we felt there might be some duplication on the refrigerated costs being assessed. However, after reviewing the real property records, it was obvious that no duplication was evident. The real estate was assessed as a dry warehouse. The warehouse was converted into a cold storage and those refrigeration costs were being reported as Business Personal Property.

Subsequently, the real estate underwent a change in ownership. The Assessor's Office revalued the property as a cold storage warehouse and nearly tripled the value of the real estate. Based on the change in ownership, it was apparent there was now duplication on the refrigeration costs. The building was no longer being treated as a dry warehouse, but as a cold storage warehouse and the Assessor could support their higher value with market comparables. The Business Division continued to assess the refrigeration components reported in the property statement, duplicating this cost.

We met with the business division and provided the real property summary sheets for each property. Those sheets showed that the assessor was including the refrigeration costs in the scope of the real estate assessment. However, the business division claimed the increase in value was attributed to the thicker insulation associated with cold storage warehouses. They maintained the real estate assessment did not include the refrigeration components.

Our next step was conducting a coordinated review between the real estate and business divisions of the Assessor's Office. The results of the coordinated review indicated none of the refrigeration costs were being included in the scope of the real estate assessment. However, they provided no source documentation as to how they made these determinations. They failed to mention the two ownership changes that occurred for the subject properties. The transfers were the basis for the refrigeration costs being duplicated. Absent the transfer, the taxpayer had a fair assessment.

In general, leasehold improvements are classified as either fixtures or structures. In most cases, structures are valued as real property in accordance with Proposition 13 and fixtures are valued as personal property, per section 122.5 of the Revenue and Taxation Code (R&T). Section 122.5 states, a fixture is an item of tangible property, the nature which was originally personalty, but which is classified as realty for property tax purposes because it is physically or constructively annexed to realty with the intent that it remains annexed indefinitely.

The Assessor established a new base year value relying on cold storage comparables and could support the new higher roll value with market comparables for similar cold storage properties. The fixture items, in this case the refrigeration components would all be included in the scope of the real estate assessment. Claiming the higher value was attributed to insulation is incorrect, these buildings would transfer in the manner the assessor appraised them, as complete cold storage buildings, therefore, the real estate value included all refrigeration and or insulation components.

After several years of debate with the Assessor, we prepared to go before the Assessment Appeals Board and plead our case. In last minute negotiations, we resolved our case. The Real Property Division agreed to remove the personal property assessments for the refrigeration components. We secured additional savings arguing some issues with the market comparables they relied upon; our subject property was inferior to the state of the art facilities they used. Overall, the tax savings were in excess of \$400, 000 in taxes. These were base year corrections so the savings will continue as long as they own the property.

THE BEST WAY TO PRAY

A priest, a minister and a guru sat in a new interfaith community center. While a telecommunications worker installed the new phone system, they began discussing the best positions for prayer.

"Kneeling is definitely the best way to pray," the priest said.

"No," said the minister. "I get the best results standing with my hands outstretched to heaven."

"You're both wrong," the guru said. "The most effective prayer position is the lotus position."



The telephone technician sat up. "Excuse me, gentlemen, but I should tell you that the best praying I ever did was when I was hanging upside down from a telephone pole."
