PTA

PROPERTY TAX UPDATE

[illegible] 16600 Woodruff Ave. Bellflower, CA 90706 ◆ 562-920-1864 ◆ www.propertytaxes.com

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Escape Assessments, What Are They?

Ron Gangloff, Esq.

Escape assessments typically refer to property belonging to or possessed by a taxpayer where the taxpayer failed to report or the assessor failed to assess the property. This failure to assess ultimately results in property that "escaped" assessment.

Now that the 571L filings have been processed and the assessment roll is closed the audit season is in full swing. In any case in which locally assessable trade fixtures and business tangible personal property owned, claimed, possessed, or controlled by a taxpayer engaged in a profession, trade, or business has a full value of $400,000. or more, the assessor shall audit the books and records of that profession trade, or business at least once each four years. Revenue and Taxation Code § 469.

An army of County auditors is now engaged in the task of making its four-year rounds of taxpayers situated in their County looking specifically for property that has escaped assessment.

Once the audit issues a notice of proposed escape assessment, tax bills are sent out. Sometimes the escapes are large and sometimes they are small but they are all worth taking a look at. Here is why.

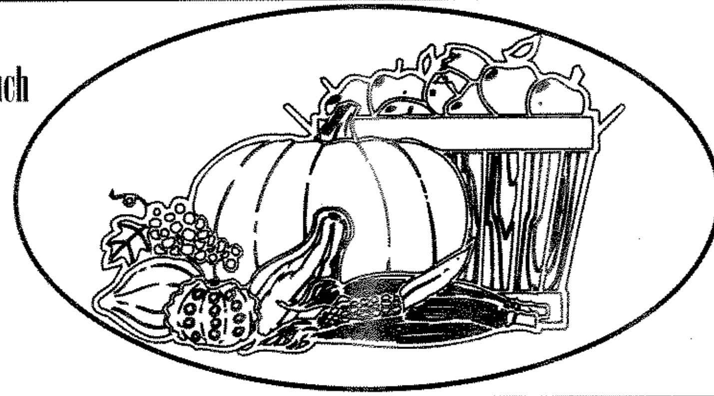
No matter how small the escape taxes owed the original underlying assessment can be opened for review. For example if a company paid $150,000 per year in real and personal property taxes then those assessments can be reviewed for accuracy. So instead of, say, a very small escape assessment being reviewed, it is now possible to review the underlying original assessments over the four-year period.

Many times reviewing a single year of taxes is not worth the time, but during the audit multiple years can be reviewed at once, making the review more cost effective.

Once the audit is complete an appeal must be filed on the escape and the underlying assessments. This must be done within 60 days of receipt of the tax bills in counties of the first class and within 60 days of receipt of notice in all other counties.

"Let us remember that, as much has been given us, much will be expected from us, and that true homage comes from the heart as well as from the lips, and shows itself in deeds."

Theodore Roosevelt 1901



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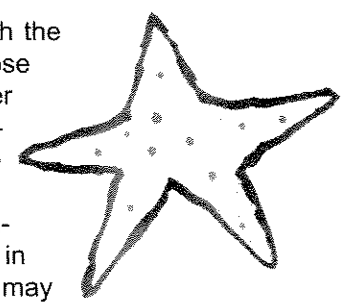
AUDITS! NOT A NUISANCE, AN OPPORTUNITY!

David L. Gangloff Jr., PTA President



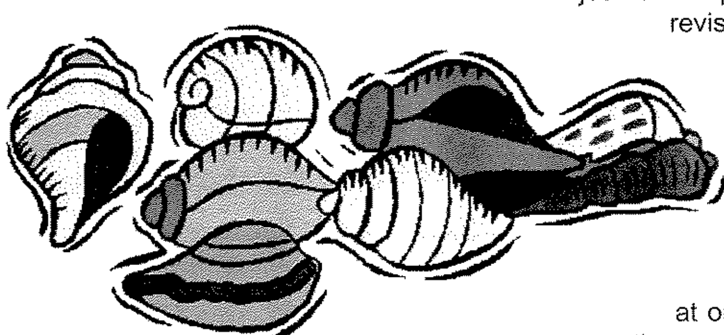
In one recent case, after the audit was completed the taxpayer was unhappy with the results and filed assessment appeals for all years under audit at one time. Eventually, those audit appeals resulted in assessment reductions of approximately 65% for each year under audit and almost $4 million in tax refunds. While the size of the refunds is somewhat unusual - mostly because taxpayers do not generally pay this much in personal property tax - the concept of reducing assessments during audit is not at all unusual.

If you are like most taxpayers, you dread the idea of a county auditor-appraiser coming in and examining your books. This is so, regardless of any doubts you may have in regards to the way that you reported your property to the county in the first place. You may believe that you reported everything according to the instructions, and yet the idea of an audit sends shivers down your spine. On the other hand, you may have reported in an aggressive fashion and now worry about what the auditor may change. Additionally, you may be so busy with other pressing matters that the idea of dealing with an auditor-appraiser may send you off the deep-end.

So why are audits a good thing, you might ask? The reason is because they allow you to review four years of assessments at one time. If the auditor-appraiser discovers that property has been under assessed the auditor-appraiser is required to issue an escape assessment. If, however, the auditor-appraiser concludes that the property has been over assessed the auditor-appraiser is required to let the taxpayer know that he is entitled to file a claim for refund. Considering that the assessor uses a mass appraisal technique to value property, any doubt as to the value of the property when the Business Property Statement is being processed is resolved in favor of higher assessments.

The audit is the taxpayers' first real chance to sit down with an appraiser and discuss the value of the property. If you can convince the auditor-appraiser that the mass appraisal techniques do not adequately appraise the value of your assets and that a reduction is in order, you will receive a refund.

Of course, many auditor-appraisers resist the "appraiser" aspect of their title. They prefer to think in terms of being an "auditor" only. In this case you may have to file an assessment appeal at the end of the audit and take your case to the local assessment appeals board. You may file an assessment appeal only when the auditor-appraiser finds property "subject to escape assessment." Because of recent court decisions and revisions to the rules relating to when an audit may be appealed, the ability of a taxpayer to file an appeal after audit has been greatly enhanced. At the very least, the local assessment appeals board has the responsibility to determine if property was "subject to escape assessment."



Whereas there is no doubt that there is extra work with an audit, if you keep in mind that you have a good opportunity to reduce four years of assessments at one time and receive refunds, the time and energy spent on the audit actually makes money for your company. It is not unusual for us to see assessments reduced after audit by 15-50%, or even more. So, the next time an auditor comes calling, think of it as an opportunity rather than a nuisance.