

Summer 2004

Volume 9. Issue 3

TAXPAYERS LOSE!

The Court of Appeal reversed the decision of Superior Court Judge John M. Watson in the so-called "recapturing" lawsuit against the County of Orange. California property taxpayers' best hope now is that the California Supreme Court agrees to review the decision of the Court of Appeal, and ultimately overturn the appellate ruling.

Recapturing is the assessment practice, followed in all 58 California counties, that involves the increase in property tax more than 2 percent in a single year, even though the property was not sold, was not newly constructed, and did not undergo a change in ownership.

In late 2001, Superior Court Judge Watson declared recapturing to be a violation of Proposition 13. Judge Watson's ruling, which applied only to Orange County, granted class action status to the lawsuit.

Article XIII A, Section 2, subdivision (b) of the State constitution was at issue. It states:

"The full cash value base may reflect from year to year the inflationary rate not to exceed 2 percent for any given year or reduction as shown in the consumer price index or comparable data for the area under taxing jurisdiction, or may be reduced to reflect substantial damage, destruction or other factors causing a decline in value."

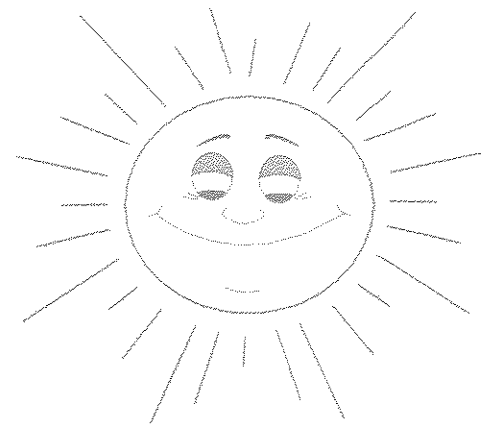
In a decision filed on March 26, 2004, the Court of Appeal declared that section 2, subdivision (b) is "ambiguous," and that California voters always intended that the 2-percent annual inflation cap should be calculated based on the original purchase price of property. The plaintiffs believe that section 2, subdivision (b) allows the full cash value base to be reduced, and that it may not be increased by more than 2% in any given year.

A petition was filed with the California Supreme Court. If you are affected by this ruling and would like to voice your opinion you may do so by writing to the Chief Justice of the California Supreme Court, urging the Court to grant our petition. You can (and should) read a full copy of the petition, as well as the complete opinion of the Court of Appeal at www.propertytaxre-funds.biz. Then address your letter to:

The Honorable Ronald M. George
Chief Justice, California Supreme Court
350 McAllister Street
San Francisco, CA 94102

Continued... Page 2

David L. Gangloff Jr., Esq. President



Your Name

Sincerely,

The Court of Appeal was wrong in County of Orange vs. Renee M. Bezaire. As a concerned Californian, I urge you to review the decision by the Court of Appeal."

"Dear Mr. Chief Justice:

Your letter can be brief and to the point. For instance, you could write:

The State Supreme Court has assigned the following case number to the petition: S124682. The case title is "County of Orange vs. Renee M. Bezaire." Be sure to mention the title and case number in your letter.

Continued from...Front Page

Definitions of Economic and Physical Life

Property Tax Assistance Co., Inc. recently represented a client in front of the Assessment Appeals Board, and the following issue arose in the course of the hearing. During the cross-examination, the county's certified appraiser was unable to properly define the following appraisal terms: Economic Life and Physical Life. For personal property, Fair Market Value (FMV) is the basis used in arriving at the proper amount of tax.

Economic life is the estimated number of years that a new property may be profitably used for the purpose for which it was intended. In other words, economic life is the estimated number of years that a new property can be used before it would pay the owner to replace it with the most economical replacement property that could perform an equivalent service.

Physical Life is the estimated number of years that a new property will physically endure before it deteriorates or fatigues to an unusable condition purely from physical causes, without considering the possibility of earlier retirement due to functional or economic obsolescence.

The county relies on the Cost Approach to arrive at FMV. The Cost Approach is based on the principle of substitution: a prudent buyer will not pay more for an asset than the cost of acquiring a substitute property of equivalent utility. By definition alone, the cost approach utilizes the concept of Economic Life in deriving FMV.

As machinery and equipment ages, income producing capabilities of these assets decline. Technological changes play a pivotal role in this decline. Based on the cost approach, FMV is to be arrived at by applying the concept of economic life. However, County Assessors choose to rely on the physical life of equipment to determine value. Maintaining this position clearly overstates the market value of equipment.

Recently, the California Assessor's Association increased the specified life table of Computer Numerically Controlled (CNC) equipment from an 8-year life to a 12-year life.

The premise of their position is based on their major value component being related to the heavy machinery portion as opposed to the computer controls used to operate the machine. Previously, it was assumed that the value was directly related to the computer portion, therefore supporting a shorter life.

Based on this example, California Assessors are relying on a 12-year physical life to arrive at the fair market value. The shorter life would reflect the economic life of this equipment. CNC equipment is constantly changing because of the high level of technology associated with this equipment. The value of this equipment is tied to the sophisticated software being utilized to operate it. The newer, more advanced software allows for faster speeds, better tolerances, and more accuracy. County Assessors emphasize physical life in order to support an increased life table. Regardless of industry, economic life is a critical factor in arriving at FMV. As previously stated, applying a 12-year table overstates FMV. Clearly, physical life of this equipment can be 12-years. However, in economic terms, most taxpayers would be wise to invest in a newer, faster state of the art machine. Thus, properly understanding the definition of physical and economic life is crucial to arriving at a fair assessment.

Tired of Mail?

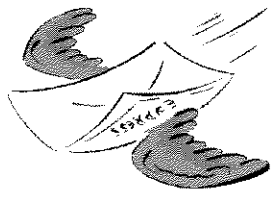
Would you prefer an email of this publication?

If so please email :

Lisa Henry

lhenny@property-

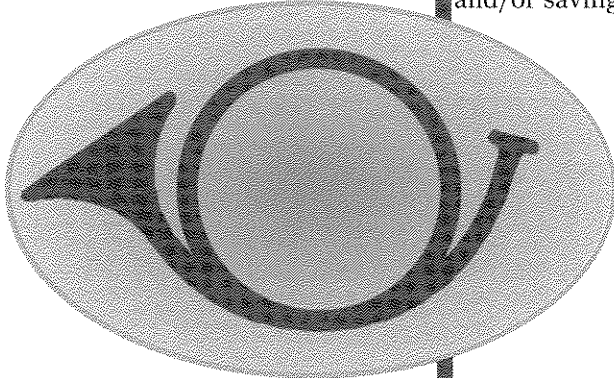
taxes.com



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 the amounts of the refunds and/or savings that our clients have received back from the counties.

Steel Processing	\$2,279,352.00
Circuit Board Mfg	\$540,245.00
Aerospace	\$159,652.76
Internet Mailing	\$114,012.04
Tire & Wheel	\$112,867.30
Aluminum Can Co.	\$97,985.67
Produce Company	\$37,669.00
Alcohol Distiller	\$73,943.23
Meat Packing	\$62,336.33
Fiber Optics	\$47,472.45
Bakery	\$32,613.27
Grocery	\$50,464.59

**Tax Tidbits****Public Record Online**

The Public Records Online Directory is a Portal to official state web sites, and those Tax Assessors' and Recorders' offices that have developed web sites for the retrieval of available public records over the internet. For example, some Recorders' offices have marriage and birth records available online. Although not every county and parish has data online, many have home pages, and where neither is available a phone number has been provided.

www.netronline.com/public_records.htm

Find out if the IRS owes you money!

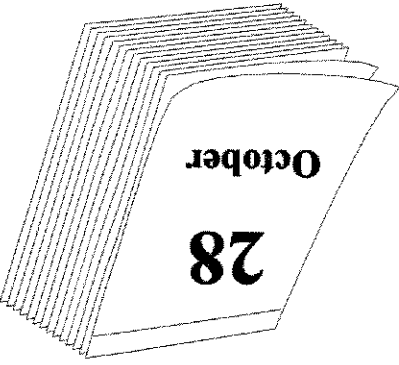
Over 200,000 Americans are missing out on \$118 million in tax refunds or advance child credit payments they're legally owed are YOU one of them?

Every year, thousands of income tax refund checks are returned to the IRS as un-deliverable, because the taxpayer has moved, changed his or her name, or simply because the check has an incomplete or improper address. The un-delivered checks are conventional income tax refunds from tax returns filed in 2003 and earlier, as well as advance payments associated with the 2003 tax law's expansion of the child tax credit. www.ntu.org/main/components/irs03/

Property Tax Refund Interest Rate Decrease, approved by Senate

On May 3 the Senate approved legislation reducing the amount of interest paid on property tax refunds to taxpayers from 3% to the rate on 13-week U.S. Treasury bills (currently 1.01 percent)





The seminar will be held at
 Embassy Suites Hotel
 2120 Main St.
 Irvine, CA
 Thursday, October 28,
 2004. 9:00 am-4:30 pm
 Registration information is
 enclosed.

Property Tax Assistance Co., Inc.

October 28, 2004 is the date for the annual
 Property Tax Seminar, given by:
 The Professionals at

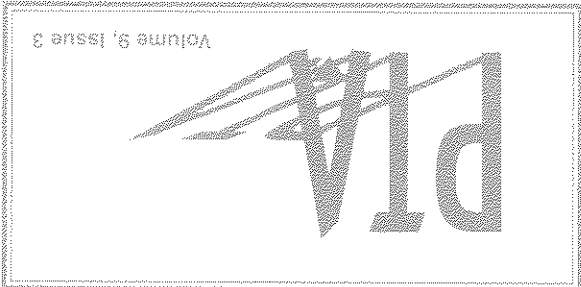
Save This Date!

Property Tax Update

Editor: Lisa Henry
 LHenry@property-taxes.com
 562-920-1864

www.property-taxes.com
Bellflower, CA (Corporate Headquarters)
 Property Tax Assistance Co., Inc.
 16600 Woodruff Ave.
 Bellflower, CA 90706
 Phone 562-920-1864 Fax 562-920-5775
 PTA@property-taxes.com
Los Angeles, CA
 Property Tax Assistance Co., Inc.
 Real Estate Tax Division
 445 S. Figueroa St., Ste. 2250
 Los Angeles, CA 90071
 Phone 213-239-6745 Fax 213-239-6755
 RETD@property-taxes.com
Oakland, CA
 Property Tax Assistance Co., Inc.
 7700 Edgewater Drive, Suite 552
 Oakland, CA 94621
 Phone 510-569-8060 Fax 510-569-8045

David L. Gangloff Jr., Esq. President
 Property Tax Assistance Co., Inc.
 16600 Woodruff Ave.
 Bellflower, CA 90706



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