PTA PROPERTY TAX UPDATE

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Ballot Initiatives to Raise Business Property Taxes

By: Julio Martinez, Tax Consultant

A split-roll property tax has been a debated issue for many years, and a vast number of attempts have been made to accomplish this with no success. However, in recent weeks,initiatives that intend to split the property tax roll have been submitted to the Attorney General's Office, therefore increasing the chances of this becoming a reality.

Under Proposition 13, which was the voters' 1978 constitutional amendment to reduce property taxes, property is assessed at current market value when it changes ownership or undergoes new construction. The tax rate is fixed at 1 percent, and increases in assessed value are limited to 2 percent a year. However, the following initiatives are looking to alter this for non-residential property:

Tax Fairness Act of 2005: This is the latest measure that has been submitted, which was done on January 26. This initiative would amend Proposition 13 by requiring annual reassessment of non-residential property, regardless if the property changes ownership or undergoes new construction.

High Quality Classrooms Act: There have been two versions submitted - one looks to add .30 percent to the existing tax rate of 1 percent on commercial property; the other looks to add .50 percent to that tax rate.

Tax Fairness for Homeowners Act of 2005: This measure would require annual reassessment of non-residential property, but would also have a personal property tax exclusion for small businesses.

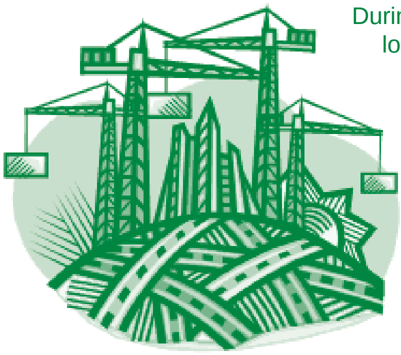
Economic Recovery Tax Relief Act: This measure would require that commercial property be reassessed annually. In addition, it would lower the state's sales tax, but would increase the corporate tax rate from 8.84 percent to 9.3 percent.

It is anticipated that these ballot initiatives will be cleared by the Attorney General to qualify either for a November 8, 2005 election, if Governor Arnold Schwarzenegger orders a special election, or for the next regularly scheduled statewide election in June of 2006.

The bottom line is that if adopted, each of these initiatives would result in an increase in taxes for businesses, whether due to a more frequent reassessment of business properties or an increase in the tax rate. Is this really the best way to generate more revenue for California? To force businesses to pay more in taxes, causing a much greater liability, especially for small businesses? What happened to California wanting to be more "business friendly?"

CONTAINERIZATION- Changing the Waterfront

Albert Zamarripa, Senior Tax Consultant



During the past decade, ports around the world faced major challenges as marine technology and logistics evolved. Two important factors which have impacted ports are the growth of ship size and the logistics required to process an increasing volume of containerized cargo. The trend in the cargo handling industry has been for operations to improve their cargo handling technology and to expand facilities to meet the increased demand, primarily from imported goods.

The current trend of deploying ever larger container ships continues to force ports to upgrade to longer out-reach Super Post-Panamax sized gantry cranes and other container handling equipment, dredge access channels, and increase water depths at berths.

This article will focus on the functional obsolescence inherent to the constant changes that have evolved within a port's crane requirements and technology.

Container-Ship Evolution

Since the birth of the first containership (1960's), the world has seen the evolution of 5 generations of containerships, with the 6th and latest generation currently being developed. These 5 generations of containerships ranged from the Container Barges, with a capacity of up to a few hundred Twenty-Foot Equivalent Units (TEU), to the Super Post-Panamax Vessel, the 5th generation which could carry from 6000 to 8000 TEU containers. The 3rd generation vessels, often known as the Panamax-sized vessels, are the largest containerships that could pass through the Panama Canal due to their size and depth. The different generations of containerships evolved due to a desire to increase the loading capacity of the containership, and, hence, increasing efficiency through economy of scales and/or reduced shipping costs.

Port Crane Evolution

In concurrence with containership size increasing, ports are required to maintain port cranes that have adequate height and outreach in order to service these larger ships at dock. The typical crane outreach required to handle a Post-Panamax vessel is approximately 145 feet. The requirements have increased to approximately 180 feet in order to service the newest Beyond Post Panamax vessels.

In addition to the height and outreach of a crane playing a key role in being able to service these larger ships (Super Post-Panamax Vessels), the speed at which a crane can unload larger amounts of cargo is a major prerequisite that shipping lines are requiring of their cargo handling partners. The 5th Generation crane can unload with an approximately 18% greater efficiency rate than the predecessor crane of the 1990s.

The lift capacity is also a critical factor, not only from a speed standpoint but also from a capacity standpoint. The ability to lift two 20-foot boxes requires a crane capacity of 50-60 tons, and this is fairly standard on cranes supplied today. The predecessor crane of the ‘90s typically has lift capacity of 40 tons, which eliminates the capability of twin-lift.

Valuation

The factors recently discussed ultimately have a direct impact on the value of a port crane. Since port operators are being forced to invest in larger cranes, the supply/demand of the Post-Panamax crane is negatively impacted, and the prices are driven downward.

However, the Los Angeles (L.A.) County Assessor's Office has taken an aggressive approach with respect to valuation of port cranes. Beginning in 2002, the L.A. County Assessor commenced assessing container cranes based on a 30 year economic trend table, as opposed to the traditional 15-year trend table. This essentially doubled the value of a container crane that the assessor originally had on the 2001 assessment roll, for many taxpayers alike.

The fallacy of the 30-year trend in deriving the true fair market value of these assets is that it does not even allow for proper depreciation from the physical aspects (wear and tear from use, wear from the elements, i.e. salt, etc.), let alone the functionality of the asset in the market place.

It simply comes down to the law of substitution, whereby a prudent investor is not going to pay 95% of the original cost of a 1992 Post-Panamax crane, having the ability to purchase a state of the art, Beyond-Post Panamax crane for an additional 5% or so, in cost (indexing on these assets is minimal), in addition to avoiding 9 years of wear and tear. What is the Assessor thinking?

2002 Year	LA County 30 Year	LA County 15 Year
2001	99%	95%
2000	98%	91%
1999	97%	87%
1998	97%	82%
1997	96%	77%
1996	95%	72%
1995	94%	67%
1994	95%	64%
1993	96%	58%
1992	95%	54%

Conclusion

In summary, a port can always use a Beyond Post-Panamax crane to service a Post-Panamax vessel; however, a port cannot use a Post-Panamax crane to service a Beyond Post-Panamax vessel.

Quotes

On wisdom

We don’t receive wisdom; we must discover it for ourselves after a journey that no one can take for us or spare us.
—Oscar Wilde

On growth

Unless you try to do something beyond what you have already mastered, you will never grow.
—Ralph Waldo Emerson

On common sense

Society is always taken by surprise at any new example of common sense.
—Ralph Waldo Emerson

On success

Ideas are the beginning points of all fortunes.
—Napoleon Hill

Nobody succeeds beyond his or her wildest expectations unless he or she begins with some wild expectations.
—Ralph Charell

On teaching

Behind almost every great man there stands either a good parent or a good teacher.
—Gilbert Highet

Give people a job and they will have a wage. Teach them how to start a successful business and they will have an income for life.
—Mike O’Donnell

On setting goals

In the long run men hit only what they aim at.
—Thoreau

Property Tax Update

What’s in a Tax Credit?

Bill Leonard
Member State Board of Equalization

In the debate over the Manufacturers Investment Tax Credit many criticize the concept of giving sales tax rebates to companies that stay in California. The media has portrayed these rebates as taxpayer subsidy of corporate profit. What you do not read about in the media are the other state tax credits that companies can use in California. Like the MIC, these credits represent a fraction of the total amount spent by the company on that particular purpose so that the states money is leveraged.

I counted nearly 20 such tax credits. For example, we give a 20% credit for money investment into a community development financial institution; 50% of the costs incurred for transporting agricultural products donated to nonprofit charitable organizations; 30% of employer contributions to child care plans or construction of a child care facility; 50% of costs to rehabilitation farmworker housing; 10% of the cost of property and a percentage of wages related to building the Joint Strike Fighter aircraft; incentives to do business in a military base recovery area; credit for building low-income housing; a percentage of research activities conducted in the state; 55% of the fair market value of donations under the Natural Heritage Preservation program; and a percentage of the cost of purchasing and installing a solar or wind energy system that produced electricity.

Most of these credits encourage companies to do things they otherwise would not do (e.g., invest in enterprise zones, child care, or farmworker housing) and other credits that help the company's bottom line by encouraging them to stay in CA (e.g., the research credit).

Re-printed from The Leonard Letter, a weekly email, by Mr. Bill Leonard, Member State Board of Equalization, dated February 28, 2005. To subscribe, go to www.billleonard.org, click on Subscribe, enter the eddress and then click Send Request.

Treating bee stings

Bee stings can be extremely dangerous if you are allergic. So if you are and you get stung, go immediately to the hospital.

If you do not have an allergy, then you can treat most bee stings yourself.

Remember, if you are stung you should scrape the stinger out. You can do this using a credit card, the side of a knife blade or the edge of a long fingernail. Never try to pull the stinger straight out.

You can neutralize some of the swelling that occurs because of inflammatory agents in the venom by rubbing a wet aspirin directly on the sting. However, if you can’t take aspirin normally, you should not use it for bee stings either.

Taking an antihistamine can ease pain and swelling for adults. For children, cough syrups that contain antihistamines work better.
—adapted from Tyco Wellness

Why gardeners should get tetanus boosters

If you like to garden, then you should get a tetanus booster. One-third or more of the cases of tetanus that occur each year are contracted while people are gardening or doing yard work. Tetanus is a disease caused by bacteria that is found in dirt and on tools. Small cuts and splinters are enough for transmission. It’s a good idea to get a tetanus booster every 10 years, regardless of your activities. Tetanus is rare, but can be fatal.

—adapted from the University of California, Berkeley, Wellness Newsletter

Why Should I Hire a Consultant?

J.P. Patel, Senior Tax Consultant

Companies turn to consultants because consultants have been there, done that. They have worked with other companies, studied your industry, and mastered universal business strategies.

And that's something you usually don't get in-house. Many companies work with consultants because they can't afford to hire or keep the talent consultants deliver.

What you get from consultants is far above and beyond what the everyday employee is capable of doing. Normally, an employee is responsible for numerous other functions in addition to property tax. Since consultants do property tax work for a living, they come across unusual types of issues and problems. Consultants can compile these issues and fit them to the particular needs of the company they are working with at the moment.

Case in point. For one of our clients, the audit and appeal resulted in two different outcomes. The company handled the audit in-house and the appeals were handled by our firm. The deputy assessor agreed and corrected the assessments for the appeal years. However, the auditor from the same office refused to make changes for the remaining years of the audit, even though the same clerical error was made for all years of the audit. The company sought PTA's help in providing the legal and accounting support, and the auditor changed his position.

Companies typically turn to consultants for four reasons:

1. They don't have the resources to accomplish their objectives in-house. When your collective corporate intelligence hits the wall and you don't know how to fix the issues you are faced with, you need to temporarily bring in the intellect to correct them.

2. Companies simply don't have enough time to handle the project with existing staff and meet the deadline.

3. The task is so burdensome that they don't want to do it themselves.

4. Management listens to a consultant because they are paying them for their expertise in the field and employees will often speak frankly to them because they are not "threatened by them".

Once you have decided you need a consultant, the next step is finding the right expert and company for your project. Seek an advisor whose area of expertise mirrors your needs. You want your consultants to know a lot, but if they are giving you answers on your first meeting instead of asking you questions, they are not the right choice. It takes time to know what the real issues are.

How much should you pay your consultant?

Pay by value not by time. To do so, figure out how much the project is worth to the company. If it is worth only $20,000, there is no need to pay the consultant $30,000. But if the project is worth $1 billion, $1 million may not be too much to pay.

Determine what return on investment you expect. The higher the return, the higher a percentage of that return you might be willing to spend to accomplish your objective. If you are not sure of the expected return, a contingency would be the way to go; that way all of the risk falls on the consultant.

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 that our clients have received from the county, due to our work.

Meat Packing	*$52,871.46*
Metal Processing	*$74,979.92*
Industrial Manufacturing	*$70,732.05*
Dairy Farm	*$27,207.54*
Grocery Chain	*$311,429.29*
Plumbing Fixture	*$20,761.81*
Managed Network Services	*$98,715.62*
Dyeing & Finishing	*$26,265.83*
Electronics Manufacturing	*$18,508.68*

Tax Tidbits

MIC CONTROVERSY

T. J. Rogers, CEO of Cypress Semiconductor, responded to Carole Migden, a State Senator who criticized the the MIC refunds, by saying, “She will never, ever, ever have to worry about my company building a plant in California again and getting insulted when we ask not to be taxed for the priviledge of building a plant. We’ll go somewhere else where they not only do not tax us for building a plant, but they actually give us incentives and credits and subsidies to create jobs.” If we were to reinstate the MIC we would merely be catching up to other states.

LOVING PROP 13

According to the *Tahoe Daily Tribune (February 9)* property owners on the California side of Lake Tahoe must be thinking, “Thank God for Proposition 13.” They see huge assessed value increases on the Nevada side of the Lake. Nevada assessors are saying land values are driving massive increases in assessed values and taxes.

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Property Tax Update

Property Tax Seminar

Watch future issues of the Property Tax Update for information on this years property tax seminar, given this October by the...

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