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PTA PROPERTY TAX UPDATE

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Press Release

Court Finds for Taxpayers In Multi-Million Dollar Suit Against Los Angeles County

Robert Pool, Esq.

Bellflower, California, February 16, 2006 - A judge ruled that Los Angeles County paid substantially less than the legal interest rate and the amount of interest owed to two property taxpayers who received refunds of overpaid taxes from the County in 1997 and 1999. In a class action suit filed in the Superior Court in 1999 by property owner Roger E. Bacon, and later joined by Reynolds Metals Company, Judge Peter D. Lichtman on February 8 awarded more than \$45,000 to the two named plaintiffs. The award included additional interest as damages at 7 percent.

The case, Bacon vs. Sasaki, No. BS 058574, was tried as a test case, and charges Los Angeles County, the County Auditor-Controller, and County Treasurer-Tax Collector with failure to pay interest on property tax refunds as required by law; and with failure to notify taxpayers who received refunds since 1995 that they have the right to file a claim for additional interest.

The test case was tried without a jury in early January. Judge Lichtman, who presided at the trial, announced his decision against the County defendants in a 26-page opinion. The case is not certified as a class action. However, the case may later be certified as a class, if the County refuses to pay similarly situated taxpayers.

Attorneys, Gangloff, Gangloff & Pool, of Bellflower, and Knapp Petersen & Clarke, of Glendale, who represent Mr. Bacon and Reynolds Metals, filed the class action against the County defendants in August 1999, after the County paid the wrong amount of interest on refunds of property taxes that Bacon and Reynolds received for the 1989 through 1997 tax years. Based on sworn testimony by the County, disclosing that the County refunded to more than 1 million property taxpayers in the County a total of \$1.4 billion in overpaid taxes between 1995 and 2000, attorneys for Bacon and Reynolds calculated the amount of unpaid interest then owed by the County at \$70 million. With the added damage award at 7 percent per year, the County's liability now is estimated conservatively at more than \$120 million.

Property Tax Update

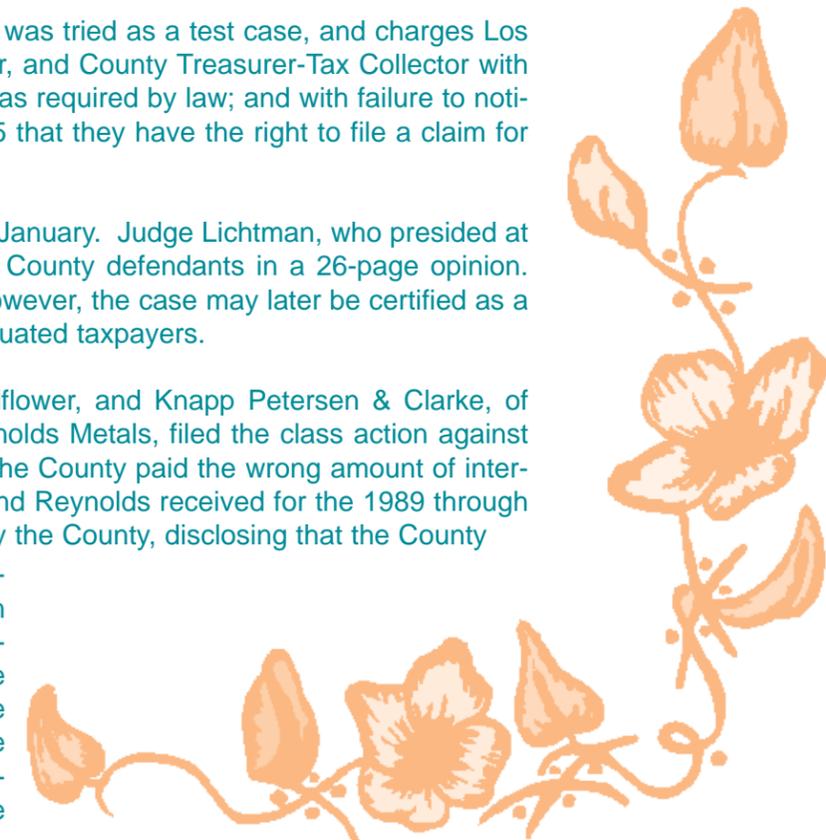


Enjoy the lazy, crazy days of Spring!

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Property Tax Penalty Abatement

Albert P. Zamarripa, Senior Tax Consultant

Was Your Annual Form 571-L Filed Late?

Section 441 of the Revenue and Taxation (R&T) Code specifies the date upon which each person owning taxable personal property in excess of \$100,000, shall file a signed property statement with the Assessor. The signed property statement is better known as Form 571-L.

Section (b) of the Code specifies that the statement shall be filed between the lien date (January 1st) and April 1st. However, a penalty provided in Section 463 of the R&T applies if filed after May 7th. The late filing penalty prescribed by Section 463 is 10% of the regular assessed value.

As many unfortunate taxpayers may agree, the 10% penalty can be a significant increase to their property tax liability. The penalty applies whether the statement was filed on May 8th or not filed at all, for a particular lien date.

Importantly, Section 463 affords the taxpayers a remedy to have the penalty abated if they can show to the satisfaction of the Assessment Appeal Board that the late filing was due to reasonable cause as opposed to willful neglect. The terms reasonable cause and willful neglect (hereinafter referred to as "Terms") have been interpreted by numerous Assessment Appeals Board Members, and brutally manipulated by County Assessors time and time again.

In 2001 Toys 'R Us challenged the interpretation of the "Terms" in a case involving a late payment penalty, against the Franchise Tax Board (Toys R Us, Inc v. Franchise Tax Board (FTB), Sacramento Superior Court, No. 99ASO3572).

In summation, the case involved a late payment penalty levied by the FTB against Toys 'R Us, for an error in calculating franchise tax owed to the FTB. The error was detected by Toys 'R Us and corrected 24 days beyond the due date. The correction also included the payment of the correct amount of tax owed.

The FTB levied a late payment penalty, which was protested by Toys 'R Us to the FTB and the State Board of Equalization, to no avail. At trial, the FTB argued that Toys 'R Us did not exercise ordinary business care and prudence and never proved that its failure to file correctly and pay the correct amount of tax "was due to any extenuating circumstances or impossibility"; which was the FTB's view of what was required to show reasonable cause, in accordance with the law.

Based on the facts presented, the Court sided with Toys 'R Us on the matter and ordered a refund of the penalty. The Court determined that the California penalty statute is structured after the Federal penalty statute. The Court relied on the decision of *United States v. Boyle*, where the Supreme Court ruled that demonstrating reasonable cause requires that a taxpayer must show that it acted with "ordinary business care and prudence," as opposed to willful neglect, i.e., intentional failure or reckless indifference. The Toys'R Us Court ruled that a slight delay in submitting the revised information along with payment, did not constitute willful neglect.

It is important to note that although this case relates to Franchise Tax, we must consider the interpretation provided by the U.S. Supreme Court and relied upon by the Superior Court, when interpreting the terms reasonable cause and willful neglect. The interpretations relied upon by the higher Courts may provide the Assessment Appeals Board, guidance concerning the evaluation of Section 463 (late filing penalty) and their abatements.

Welcome Shari Bowden Tucker, CMI

Please join PTA in welcoming Shari Bowden Tucker, CMI. Ms. Tucker will be stationed in our Oakland office.

A Senior Manager at DuCharme, McMillen & Associates, Inc. before founding Accurate Tax Consulting in 2005, Shari Bowden Tucker, CMI. has been in the property tax field since 1987. She began her property tax career as a deputy assessor in Los Angeles County, California and then in Solano County, California. Her experience within the California assessment system makes her an ideal choice to address assessment issues. From the planning and administration side, Ms. Bowden has worked for Arthur Anderson & Co. as a member of their Valuation Services Group. She also was a Manager in both real and personal property taxation for Deloitte & Touche LLP, in Columbus, Ohio. She has held corporate management positions for Wireless One Network, General Electric, and Kmart Corporation. She has experience with all aspects of property tax valuation, administration, assessment appeals, planning and compliance. She received her Bachelor of Arts from the University of California at Davis. Ms. Bowden obtained her CMI designation in 1993.



Quotes

On staying young

The secret of staying young is to live honestly, eat slowly and lie about your age.
—Lucille Ball

The genius of life is to carry the spirit of childhood into old age.
—Aldous Huxley

On humble beginnings

If living conditions don't stop improving in this country, we're going to run out of humble beginnings for our great men.
—Russell P. Askue

On taxes

The hardest thing in the world to understand is the income tax.
—(attributed) Albert Einstein

Income tax returns are the most imaginative fiction being written today.
—Herman Wouk

The income tax has made more liars out of the American people than golf has.
—Will Rogers

On anxieties

Do not anticipate trouble, or worry about what may never happen. Keep in the sunlight.
—Benjamin Franklin

On memory

They may forget what you said, but they will never forget how you made them feel.
—Carl W. Buechner

Property Tax Update

New Amendment Affects Appeal Notification

Julio Martinez, Tax Consultant

Whenever the assessor determines that property has escaped assessment, Revenue & Taxation (R&T) Code Section 531.8 requires that prior to an escape assessment being levied, a taxpayer must receive a "Notice of Proposed Escape Assessment." Furthermore, R&T Code Section 534 requires that when the assessor actually makes the escape assessment, a second notice (534 notice) must be sent that includes information regarding the right to appeal the assessment.

Effective January 1, 2006, Senate Bill 555 amends Section 534 to allow the escape assessment tax bill to serve as the 534 notice as long as it provides information concerning the right to appeal the assessment. However, this amendment does not affect the notification procedure of all California counties.

Some California counties, including Los Angeles County, have adopted a resolution pursuant to R&T Code Section 1605(c), where an appeal for an escape assessment must be filed "no later than 60 days after the date of mailing printed on the tax bill or the postmark date thereof, whichever is later." Because of the new amendment, these counties are not required to send out a 534 notice only if the tax bill informs taxpayers of their right to appeal the escape assessment. However, in counties that have not adopted a resolution pursuant to Section 1605(c), the assessor is still required to send out a 534 notice.

Whether it's the 534 notice or tax bill, it's important to know which one satisfies the notification requirement under Section 534 because an escape assessment cannot be enrolled by the assessor until the taxpayer has been properly notified. Section 534(b) states that "no assessment shall be effective for any purpose, including its review, equalization, and adjustment . . . until the assessee has been notified." Therefore, it's critical to know whether or not the tax bill alone suffices as the 534 notice.

If you are unsure as to the notification and/or appeal procedures followed in your county, you can call the county clerk of the Assessment Appeals Board to find out.

Daily Meditation can Bring Insight

When you're feeling at loose ends, it could be a good idea to participate in some type of meditation. Meditation often is no more than seeking out peacefulness and calmness during the stress and struggle of everyday living. Simple practices can work well. Find a quiet place, focus on your breathing and grow quiet. Eventually you will grow calm, and if you practice on a daily basis and learn how to empty your mind, you may find that you gain insight into matters that seemed to evade your understanding previously.

You can learn more about meditation at these websites:
www.how-to-meditate.org
www.meditationcenter.com
www.learningmeditation.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 that our clients have received from the county, due to our work.

Business Software	\$33,760.34
Commercial Printer	\$126,458.72
Containers Mfg.	\$39,602.01
Energy Co.	\$30,576.00
Investment Co.	\$30,742.77
Network Manufacturer	\$308,180.73
Packing Mfg.	\$33,045.82
Roofing Materials Mfg.	\$161,728.24

Tax Tidbits

Gasoline Tax

Every gallon of gas in California cost you nearly 60 cents in taxes.

The California Energy Commission has proposed an additional 2.5 cent tax on every gallon of gas sold. This would give California the distinction of having the highest gasoline tax in the country.

Governor Schwarzenegger opposes this higher tax.

New Bill of Interest

New Construction SCA28 (Ashburn) exemption for specified seismic retrofitting. Expands the existing property tax exemption for seismic retrofitting.

What is Business Personal Property?

In general, Business Personal Property is all property owned or leased by a business except Real Property and Inventory items.

Business Personal Property includes, but is not limited to: Machinery, Computers, Equipment, Telephones, Furniture and Supplies.



Life is like a rose . . .

More exquisite and precious,
When shared with others.

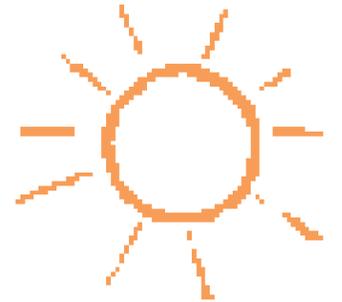
- Jane Oechsle Lauer

PROPOSITION 13: PER CAPITA INFLATION-ADJUSTED DOLLARS TO ALL GOVERNMENT HIGHER THAN BEFORE PASSAGE

Revenues to all levels of government in California were higher in fiscal year 2002-03 (last available data) than the fiscal year prior to Proposition 13's passage, adjusted for inflation and population growth, according to a study by the Center for Government Analysis which was released November 1, Steven Frates, director of the study, said the data are based on reports filed with the state controller.

Jon Coupal, president of the Howard Jarvis Taxpayers Association, said the study should put to rest the continuing claims that Proposition 13, approved in 1978, is responsible for deficiencies in public services.

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Findings of the Report			
Jurisdiction	1977-78	2002-03	% Change
State Government			
Total Revenue-Inflation Adjusted	\$44.501 billion	\$88.619 billion	98.9
Per Capita Revenues, Inflation Adjusted	\$1,971.81	\$2,480.13	25.8
County Government			
Total Revenue-Inflation Adjusted	\$23.4 billion	\$40.2 billion	71.5
Per Capita Revenues, Inflation Adjusted	\$1,040.07	\$1,127.69	8.43
City Government			
Total Revenue-Inflation Adjusted	\$24.946 billion	\$47.687 billion	91.2
Per Capita Revenues, Inflation Adjusted	\$1,105.35	\$1,336.12	20.9
School Districts			
Total Revenue-Inflation Adjusted	\$25.551 billion	\$55.728 billion	76.5
Per Capita Revenues, Inflation Adjusted	\$4,559.34	\$9,005.00	30.7
Special Districts			
Total Revenue-Inflation Adjusted	\$12.881 billion	\$33.579 billion	160.7
Per Capita Revenues, Inflation Adjusted	\$570.77	\$940.83	64.8



Fun in the workplace builds camaraderie—and success

Are you contributing everything you can to promote fun in your work culture? If not, you might ask yourself why not? How do your staff members have fun at work? Can people work hard at their jobs and still have fun in the environment your company provides? Firms that believe in fun work environments promote camaraderie. Do you throw surprise barbecues or parties for your workers? Have you ever had a mariachi band play for your workers in the parking lot? When you do throw a company party, what's the attendance like—do people show up with enthusiasm or dread, or not at all? Why not make "Having fun while we succeed" your new company motto?

—adapted from Igniting the Spirit at Work, by Marilyn Mason