PTA PROPERTY TAX UPDATE
Property Tax Assistance Co., Inc. ❖ 16600 Woodruff Ave., Bellflower, CA 90706 ❖ 562-920-1864 ❖ www.property-taxes.com
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Property Tax Issues within Mining

Albert P. Zamarripa, Regional Director- Northern California

Minerals are the foundation of our modern civilization. The average American uses about 40,000 pounds of new minerals each year. Minerals are used in various industries and products within our civilization including buildings, automobiles, roads, glass, plastics, fuels, cement, books, paint, batteries, light bulbs, medicines, and jewelry to mention a few.

Valuation of mining properties in California has received significant attention from both County Assessors as well as the California State Board of Equalization (SBE). In 1997, the SBE published Assessor Handbook (AH) 560, Assessment of Mining Properties, to provide guidance to Assessor's in various taxing jurisdictions as to the appropriate guidelines for assessing mining properties.

Normally, mining properties are valued based on the income approach to value at the Production stage of the operation. It is important to understand the ramifications of the income approach to valuation of a mining property, since minor discrepancies within any of the inherent factors can cause substantial deviations for the property's actual value.

The typical income approach will take the present value of the mining operation's future operating income, to derive a net present value estimate of the entire property. In essence, the income approach has valued all components of the property which contribute to value. The income approach is discussed thoroughly in AH 504, in addition to Rule 8- Income Approach to Value. It is important to determine any intangibles which may be included in the initial estimate of valuation conducted by the Assessor. Typically the Assessor will not adjust his valuation for the intangible components of the property. This can create problems into the future, since technically the Assessor is determining a Base Year Value for the mining reserves, in accordance with Article XIII A of the California Constitution (Proposition 13).

This leads me into the next important point with respect to the valuation of mining properties. It is essential that the Assessor not perform an annual income approach on the operation to derive the value of any of the components within the mining operation (i.e., land, building, fixed machinery, reserves, etc.). I have experienced this with one of my clients in San Bernardino County, and it was determined by the Assessment Appeals Board that this method is in violation of Prop 13.

The statutes pertaining to the mining operation and base year of the reserves is quite clear, however Assessors have mistaken (either by lack of experience, or perhaps revenue driven) to adhere to the procedures and policies outlined in AH 560. The procedures set fourth in the handbook are designed (can be considered vaguely), to protect the Prop. 13 value of the reserves. This protection can be compared to the Prop. 13 afforded homeowner's, since all real property (including fixtures) is afforded that specific protection.

However, in San Bernardino County, the Assessor is using an annual income approach to determine the value of Fixed Machinery and Equipment (M&E). This method was deemed improper by the AAB, considering that in the Assessor's approach the value of the fixed M&E was actually increasing. Now everybody knows that equipment used in extremely abrasive environments (such as mining operations) would typically have an depreciation factor associated. However, the Assessor's approach improperly increased the value of the Fixed M&E from year to year. It was determined by the AAB, that the Assessor's approach is merely circumventing the Prop. 13 protection of the Reserves and therefore deemed the approach improper in assessing Mining Properties.

It is important for taxpayers to be aware of these types of tactics being utilized by some County Assessors in the state, in order to recognize flaws within the valuation techniques being implemented. It is equally as important for Assessors to follow the policies and procedures outlined by the State Board of Equalization, in order to provide taxpayers with uniform and equitable standards for taxation.

Property Tax Basics

Arthur E. Bennett, CMI, Vice President-National Property Tax Services

Most of you reading this article, would probably be surprised to know that I am convinced you already know more about property taxes than I did when I started in the property tax department of Santa Fe Railway…..37 years ago. Of course I've picked up a little knowledge along the way since then, but at the time I was hired as a Tax Agent, my only exposure to property taxes was that I had just bought our first home and I had to pay my first property tax bill. I did not know the first thing about market value, assessment ratios or tax rates and much less about who determined all those things.

For those of you whose primary jobs are not property taxes, I would like to walk you through a high level review of the property tax process and point out along the way real and personal property tax issues that the property tax professional must deal with on a daily basis. You all probably know that taxes on property (real & personal) have been levied and collected since ancient times and were almost always based upon some standard of their value. However, to better understand and explore how some of the issues that affect your property tax assessments, we must start with a basic foundation of common terminology that exists within property tax.

Basic Terminology 101

Assessment Date: The designated date that the personal or real property is valued for tax purposes. Most states have an assessment date of January 1 for real and personal property; however, as in all areas of tax, there are exceptions

Assessed Value: The value placed on the personal or real property by the local assessor after the application of the appropriate assessment ratio (this varies from state to state and can vary from residential to industrial, to commercial.). The assessed value may or may not be the tax value, if the jurisdiction has a 100% assessment ratio, then the assessed value will be the same as the market/full cash/taxable which is to name just a few of the standards of value.

Market/Full Cash/Taxable Value: The value that is used to determine the property tax due is calculated using this base value. Many jurisdictions calculate the tax due on the assessed value; however, jurisdictions may calculate tax due on a portion of the assessed value.

Lien Date: This is another name for the date that taxing jurisdictions value property "as of", similar to what is described above as Assessment Date. Some jurisdictions may consider this the date on which a county or state government may record a claim against a property with unpaid or delinquent property tax. Property tax that remains unpaid for the statutorily defined period may be seized and sold by the county or state government to satisfy the debt.

Payment Date: Date on which real or personal property tax is due. Most states require payments of unsecured personal property taxes in a single annual installment, but again, there are exceptions where local jurisdictions require semi-annual payments (New Mexico) and quarterly payments (New Jersey). Additionally, some taxing jurisdictions offer cash discounts to tax payments if they are paid in full at the time the first installment is due, again this varies extensively by state.

Rendition: An annual report filed by the taxpayer that identifies and classifies general business property (which generally is based upon the company's fixed asset listing and G/L) into assessor defined categories. These are also known as Business Personal Property Statements in many states. These categories are generally broken down into, Machinery & Equipment, Office Equipment, Tools, Dies & Jigs & Computers, then the assessor applies associated depreciation schedules based upon the life assigned by the assessor and are used in determining the personal property's market value. This is a major source of disagreement between taxpayers and the assessment jurisdictions, due to the fact that the implied depreciation contained within the tables does not always reflect the actual obsolescence that may exist i.e. physical, functional & economic.

Tax Year: The annual increment or period of time for which property is assessed. The most common tax year is the calendar year (January 1 - December 31) although there are plenty of examples of tax years that do not correlate to the calendar year. Many jurisdictions determine the taxable value based upon a January 1, lien date, but the resulting taxes are based upon a fiscal year July 1, to June 30.

While discussing basic terminology, we need to discuss briefly the valuation methods that are utilized to determine the value of real & personal property for "ad valorem" tax purposes. First, as mentioned briefly before, property taxes are based upon a value. The Latin term "ad valorem" literally means….according to value; used in taxation to designate an assessment of taxes against property at a certain rate upon its value. An ad valorem tax is thus a tax assessed according to the value of the property. For purposes of determining the value for property tax purposes (as say compared to an insurance value, loan value, etc.) the mostly widely and commonly accepted valuation methods are: 1) the Cost Approach, 2) the Income Approach and 3) the Sales Comparison Approach. The following are brief definitions of these three approaches to value.

1) The Cost Approach - The reproduction or replacement cost approach to value is used in conjunction with other value approaches and is preferred when neither reliable sales data nor reliable income data are available and when the income from the property is not so regulated as to make such cost irrelevant. It is particularly appropriate for construction work in progress and for other property that has experienced relatively little physical deterioration, is not misplaced, is neither over- nor underimproved, and is not affected by other forms of depreciation or obsolescence. In the Cost Approach, four basic steps are involved: 1) The land is valued as if vacant, 2) The cost of the building is reproduced or replaced at current prices, 3) Physical depreciation and functional and economic obsolescence are subtracted, and 4) Land value is added to this figure.

Continued...

Quotes

On grudges

Don't carry a grudge. While you're carrying the grudge, the other guy's out dancing.
—Buddy Hackett

On forgiveness

The stupid neither forgive nor forget;

The naïve forgive and forget;

The wise forgive but do not forget.
—Thomas Szasz

On helping others

If you want to lift yourself up, lift up someone else.
—Booker T. Washington

On house cleaning

Cleaning your house while your kids are still growing up is like shoveling the walk before it stops snowing.
—Phyllis Diller

On getting old

You know you're getting old when you stoop to tie your shoes and wonder what else you can do while you're down there.
—George Burns

On safety

The best car safety device is a rear-view mirror with a cop in it.
—Dudley Moore

Property Tax Update

Preparation for Audit

J. Patel, Senior Tax Consultant

Every 4 years, the Assessor's Office comes knocking at the door to schedule their mandatory audit. The assessor is mandated to perform his audit every four years to verify that companies are reporting all their personal property. During this audit, the auditors are to verify costs reported and verify the Fair Market Value of the personal property. A painful or smooth audit is greatly dependant on how the taxpayer prepares.

1. One should begin the process with the review of the prior audit. If an issue of supplies, fixtures or trade level has come up in prior audits, it will come up again. The taxpayer should be prepared to address the issue from the onset.
2. Reconciliation from the General Ledger (GL) to the Fixed Asset Detail (FAD) to the 571-L. The auditors begin with the GL. They tie the GL to the FAD and then tie that to the reporting on the 571L. If a reconciliation was not already completed during the original filing, a new reconciliation should be prepared. One should account for any unreported assets and provide justification for it not being reported (i.e. software, repairs, etc.). Experience has shown that if the reporting reconciles to the GL the auditor will not be inclined to ask further questions.
3. Know your rights. The Auditor will provide a Summary of Audit. The taxpayer is allowed to respond in writing to this audit and this response will become part of the audit.
4. The audit can result in no change, an offset, an increased assessment or a reduced assessment. If escapes are to be issued, a "Notice of Proposed Escape Assessment" will be sent. The taxpayer has 10 days to respond to this notice. Once the 10 days have lapsed, a "Notice of Enrollment" is issued. Depending on the county, this notice starts the 60-day window to file a tax appeal. A tax bill will follow. Regardless of your issue with the assessment, the tax bill must be paid to avoid interest and penalties.
5. In the appeal of an escape assessment, the burden of proof is on the Assessor, a distinct advantage in a tax hearing.

The key to surviving the audit is the anticipation & avoidance of conflict. By providing the auditor with a clear path, it addresses both.

The similarities between teenagers and cats

- No matter how many times you call them they won't turn their heads to acknowledge you.
- They can both lie on the couch for hours without moving.
- They both display attitudes of complete and utter boredom no matter what you do or what you buy for them.
- Try as you might, you can never make a teenager or a cat happy.
- As far as they are concerned, you are there merely to feed them. Otherwise, you should stay out of their way and quit interfering with their lives.
- They both wreck your furniture without apology.
- Both of them like to wander off at night in search of action.
- Cats have nine lives; teenagers behave as if they do.

SALES TAX EXEMPTION: *HOW DOES IT AFFECT YOUR PROPERTY TAXES?*

Julio Martinez Esq. Tax Consultant

If your business qualifies for a sales tax exemption for equipment, you may want to look at whether or not the County Assessor is properly valuing this equipment for property taxes.

We recently encountered a situation where we represented a company that, because of their industry, qualified for a partial sales tax exemption for sales and purchases of equipment used in their line of business. During a four-year audit conducted by the County Assessor, the auditor added back the exempted portion of the sales tax. Our client had excluded the exempted sales tax component when the equipment costs were reported to the County. The auditor's reasoning for doing this was that he needed to capture the equipment's full economic cost, which is the proper cost for assessment purposes. As a result, our client received tax increases for each year of the audit.

The Assessor's duty is to determine the "full cash value," or "Fair Market Value," of property as of January 1st of every year. Machinery and equipment is valued by use of the Cost Approach, which begins with the full economic cost of the equipment. Full economic cost includes all market costs necessary to purchase or construct equipment and make it ready for its intended use, which typically includes sales and use tax, freight, and installation.

However, there are exceptions to this general rule - one of them being a partial sales tax exemption, which applies only to the state general fund portion of the sales tax. Assessor's Handbook 504 states that if the purchaser qualifies for a partial sales exemption, the reported cost should not include a sales tax component attributed to the portion of the sales tax that is exempted. Also, the State Board of Equalization (SBE) has opined that "for purposes of assessment, if the Cost Approach is used to value qualified property, the cost should not include the state general fund portion of the sales/use tax."

The SBE further stated that "when the Legislature has enacted a statutory sales tax exemption for consumers of a specific type of equipment, sold at a similar trade level, sales tax should not be included as a component of cost in determining the market value of such equipment receiving the benefits of that sales tax exemption." In addition, the use of the Cost Approach to determine full cash value is based upon the principle of substitution, where a rational person would not pay more for a property than the cost of acquiring a satisfactory substitute. Since all other qualifying businesses would not have to pay the exempted part of the sales tax when purchasing equipment, our client should not have had to either.

Therefore, the auditor's inclusion of the partial sales tax exemption resulted in a flawed full economic cost basis, and a value that exceeded market value. As a result, we were successful in eliminating the tax increases determined by the auditor.

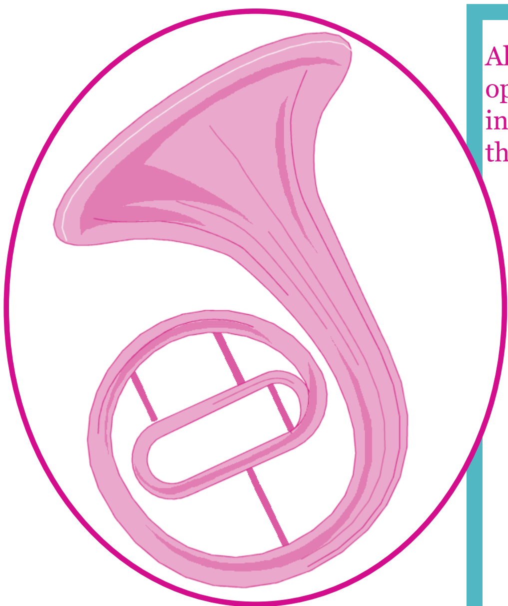
Property Tax Basics-continued....

2) The Income Approach - The income approach to value is used in conjunction with other approaches when the property under appraisal is typically purchased in anticipation of a money income and either has an established income stream or can be attributed to a real or hypothetical income stream by comparison with other properties. It is the preferred approach for the appraisal of land when reliable sales data for comparable properties are not available. It is the preferred approach for the appraisal of improved real properties and personal properties when reliable sales data are not available and the cost approaches are unreliable because the reproducible property has suffered considerable physical depreciation, functional obsolescence or economic obsolescence, is a substantial over- or underimprovement, is misplaced, or is subject to legal restrictions on income that are unrelated to cost. In the Income Approach, the value of the property is based upon its ability to produce a net rental income. A capitalization rate is then divided into this net income stream to convert it into the property's current value.

3) The Sales Comparison/Market Approach - When reliable market data are available with respect to a given real property, the preferred method of valuation is by reference to sales price. In using sales price of the appraisal subject or of comparable properties to value a property, the assessor shall, among other things convert a sale to the valuation date of the subject property by adjusting it for any change in price level of this type of property that has occurred between the time the sale price was negotiated and the valuation date of the subject property. Additional adjustments be may be required, to take into account location, superior or inferior property characteristics, etc. In the Sales Comparison Approach, sales of similar properties are analyzed and a value is arrived at for the subject by comparison.

Summary-Conclusion:
By design this article was intended to present a high level review of the property tax basics to assist in dealing with some of the real estate and personal property tax issues that confront the non-Property Tax Professional. Look for future articles dealing with Compliance & Reporting, and Audits & Appeals. Because these areas of taxation can become extremely complicated, PTA specializes in this area of taxation and since we have over 250 years of accumulated experience, we have the requisite experience to handle the various complexities that face our clients.

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.

Electronics	*$87,205.39*
Food Packaging	*$26,020.23*
Glass Mfg	*$36,955.20*
Grocery	*$126,332.67*
Hearing Aid Mfg.	*$70,768.19*
Marine Cargo Handling	*$1,336,417.70*
Plastics	*$79,692.72*
Semiconductor	*$65,378.14*
Mid-Rise Office Building	*$$147,187.*
Medical Building	*$170,000.*
Office Building	*$32,839.*

TaxTidbits

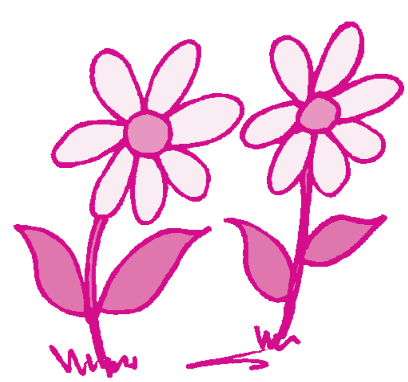
This is an excerpt from the Supreme Court of the United States. If you would like to read the whole syllabus you can find it by searching , or email me and I will be happy to send you a copy, LHenry@property-taxes.com

SUPREME COURT OF THE UNITED STATES
CSX TRANSPORTATION, INC. v. GEORGIA STATE BOARD OF EQUALIZATION ET AL.
CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR
THE ELEVENTH CIRCUIT
No. 06–1287. Argued November 5, 2007—Decided December 4, 2007

"Valuation is not a matter of mathematics, but an applied science, even a craft. Most appraisers estimate market value by employing not one methodology but a combination because no one approach is entirely accurate, at least in the absence of an established market for the type of property at issue."

Spring is nature's way of saying, "Let's party!"

~Robin Williams



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Property Tax Update

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