

PROPERTY TAX UPDATE

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WINTER

2010

Economic Obsolescence

Linda Offringa, Director Tax Compliance

2009 has proven to be an interesting year for business. The stock market crash, a record number of foreclosures, and a new President all lead to an air of uncertainty. Consumers are holding tight to their money while record levels of unemployment hit the market. 2009 is definitely a year for the record books! Many companies have either downsized, moved offshore or closed production altogether.

We all know that these economic downturns are cyclical and the economy will pick up eventually. However, in the meantime, business needs to be more aggressive and reduce costs. Management should take advantage of all tax savings where available. In regard to property taxes, the value of the real property and personal property as of the January 1 should be addressed. If the assessed value of the real property (whether leased or owned) appears to be greater than the market value, a Prop 8 or an annual property tax appeal should be filed to reduce taxes. The deadlines vary per county, but they are either September 15 or November 30 of each year. For personal property the issue of economic obsolescence can also be addressed in the appeal process.

Economic obsolescence exists when entire industries are being affected by market forces that are outside of their control.

The mass appraisal valuation technique used by the State of California is not designed to account for the specific issues that may affect a single industry. Anytime you have an entire industry that is being negatively impacted by external forces you will inevitably end up with a glut of equipment in the used equipment market. Supply and demand will dictate that the price of equipment will decrease as more supply becomes available. According to AH 582, the trend tables may contain a small component for economic obsolescence. However, the tables can not adjust for the drastic drops in value in specific industries that we have seen over the last year.

Economic obsolescence is the most difficult component of the cost approach to calculate. In the absence of market sales data, adjustments must be made to the cost approach itself. Inutility calculations are useful, but not always accepted by the Assessor's office without the market data to back it up. But when assets are being held for sale for years with no buyers and inevitably end up in developing countries for pennies on the dollar, what is the fair market value? Also, is it possible that forced sale values (BK sales) can equal fair market value when it is the only option available? Most assessors would argue that the sale price is not applicable. but when the market dictates that it is the only option available, it would be advisable to take steps to pursue the liquidation value as fair market value.

VALUATION OF SEMICONDUCTOR MANUFACTURING EQUIPMENT

Kris Chacko, Esq., Sr. Tax Consultant

On October 1, 2008 the Board of Equalization (Board) approved new factors for the valuation of Semiconductor Manufacturing Equipment and Fixtures. The previous table was approved in 1994 and was based on a 6.5 year economic life. This original life was based on a study conducted by Arthur Little in the early 90's. The new tables are based on a 6 year economic life untrended. Untrended meaning that the historical cost is not indexed, or, in other words, the replacement cost of new equipment remains the same, rather than going up every year. The previous table has a minimum percent good of 10 percent while the new tables are at 8 percent.

The Board also established the appropriate life to be used in the valuation of fixtures used in semiconductor manufacturing. In the past, various counties used different lives with no clear guidance from the Board. Counties have used anywhere from 6 year lives to 15 year lives to value fixtures used in the manufacturing of semiconductors. The new tables approved require that a 10 year trended economic life be used to value these fixtures. This should provide some uniformity in the valuation of these fixtures.

The Board has also provided a definition as to what semiconductor manufacturing equipment consists of. The Board has defined this equipment to be:

1. Equipment used in a clean room for the fabrication of semiconductor chips
2. Test equipment used in the manufacturing and research and development environment and to test semiconductor manufacturing equipment
3. Fixtures in place to support a semiconductor fabrication facility.

The Board has also provided a list of equipment to serve as guidance to classify these equipment and fixtures in Assessors Handbook AH 581. As mentioned the previous tables were based on an actual study. The Board does not provide any insight as to how these new lives and categories were determined.

Faster than a speeding bullet

A state trooper noticed a car driving along the highway very slowly. His radar clocked the vehicle at 22 mph. The trooper, worried that the driver might be in trouble, turned on his siren and brought the slow-moving car to a stop.

The driver was an elderly man. In the back seat sat two old ladies, both trembling with fright. "What's wrong, officer?" asked the driver. "I was driving the speed limit. It was on the sign back there."

The trooper realized what had happened. "Sir, that wasn't the speed limit sign, that was the route number. The speed limit is 65. You're on Highway 22."

"Oh," the man said with a nod. "Sorry about that."

The trooper looked into the back seat. "Are they all right?"

"Those are my sisters," said the driver. "They'll be fine. We just got off Highway 175."



Quotes

Even when you think you have your life all mapped out, things happen that shape your destiny in ways you might never have imagined.
—Deepak Chopra

The most difficult thing is the decision to act, the rest is merely tenacity. The fears are paper tigers. You can do anything you decide to do. You can act to change and control your life; and the procedure, the process is its own reward.
—Amelia Earhart

Champions keep playing until they get it right.
—Billie Jean King

Dreams come true; without that possibility, nature would not incite us to have them.
—John Updike

You'll seldom experience regret for anything that you've done. It is what you haven't done that will torment you. The message, therefore, is clear. Do it! Develop an appreciation for the present moment. Seize every second of your life, and savor it. Value your present moments. Using them up in any self-defeating ways means you've lost them forever.
—Wayne Dyer

My own experience about all the blessings I've had in my life is that the more I give away, the more that comes back. That is the way life works, and that is the way energy works.
—Ken Blanchard

What is in it for me?

Do you ever wish you had the time to take a deeper, more thoughtful look at your property taxes? Do you wonder if the Assessor's assessment is correct? Can your equipment be sold on the market for the value that the Assessor places on it? Despite the possible feeling of helplessness, there is some good news. There is a chance to get back some or all of the excess taxes you have already paid. This is done by filing an appeal with the Assessor's Office. Appeals need to be filed yearly, and each county has a deadline of either September 15 or November 30. Depending on when your business is due for an audit, there may be a chance to get even more money back from the county. This newfound information probably gives you a feeling of hope, but due to various constraints, you may not be able to handle the process on your own. This is where Property Tax Assistance comes in to help. We have been studying property taxes for years. We have the time, we like our specialty, and most of all, we like to win. We are good at our profession, which is why we have been in business for over 35 years. Because of the longevity of our business, we have been able to find an array of avenues to lower your property taxes. We search in places that others do not just to ensure that you are not paying more than your fair share. The beauty of this process is that if we do not get you a refund, you pay us nothing. If you are interested in winning the easy way, call me, Lisa Henry, at 562-920-1864, or email me at LHenry@Property-Taxes.com.

It's all in how you ask

Two young men went to their minister to find out whether it was OK for them to smoke a cigarette during prayers. They went into the minister's office separately, and met up later to discuss the minister's response.

The first one said, "He told me, 'no.'"

"How did you ask him?"

"I said, 'Sir, am I allowed to smoke a cigarette when I pray?' And he said, 'Of course not.'"

His friend shook his head. "You didn't do it right. He told me, 'yes.'"

"What? What did you ask him?"

"I said, 'Sir, am I permitted to pray while I smoke?'"

Leasehold Improvements Taxed Twice?

Tim Brown, Sr. Tax Consultant

Could you be paying taxes twice on leasehold improvements? If you are a lessee with a triple net lease you might. If you have leased a building that had already been improved by a previous occupant you might be also.

How is that, you ask? It has to do with how the assessor's office assesses real property and business personal property. The assessor's office is divided between the real property division and the business personal property division, and many times the two do not effectively communicate to each other what the other is assessing. The real property division is supposed to value the land and building improvements, while the business personal property division is supposed to value personal property and fixtures. However, leasehold improvements can get kind of lost between the two.

Leasehold improvements are for the most part structural improvements, and should be assessed as part of the building by the real property division (They can also be fixtures if they are integral to the business process, but for this article I am concentrating on improvements that are more a part of the building). Since the lessee, rather than the owner of the building, normally pays for leasehold improvements, they are reported on the annual business property statement form 571L (Although improvements paid for by the lessor, but constructed by the lessee create a whole new set of issues). The business personal property division processes the 571L, and the assessor's office tends to value them along with the rest of the lessee's business personal property and fixtures. In some counties, but not all, you may even see an assessment with "Improvements-Structures Business Division." This means that the business personal property division is assessing the leasehold improvements separately from the real property.

If the business personal property division is assessing your leasehold improvements it is important to then look at how the real property division is assessing the building. A lot of the time, the real property division will already be assessing the building as fully improved. Sometimes the real property division will assess tenants leasehold improvements, especially the first tenant's improvements after the building is built. However, the real property division doesn't always track the improvements of the building again, unless the building is sold, or if there is major new construction. And many times the business property division will assume that the leasehold improvements aren't being assessed by the real property division and won't look at what the real property division is assessing.

Hence, the real property division is assessing the building as fully improved, and the business personal property division is also assessing the leasehold improvements. If you are in a triple net lease, or are otherwise responsible for both the real property taxes and personal property taxes, you would be paying taxes twice on the same improvements.

Now this is not to say that this scenario always happens, and it doesn't mean that the business property division can't ever assess leasehold improvements. It's just my opinion that there is a greater chance for confusion and mistakes when this happens. As I investigate more and more assessments where the business division is assessing leasehold improvements the more and more mistakes I find, including the scenario I've laid out above.

Sometimes all it takes to get this resolved is a little investigation of the assessor's office files and bringing the issue to their attention. However, sometimes it requires gathering a significant amount of information and making the case in front of the Assessment Appeals Board in order to get the issue resolved.

HELP WANTED

A neighborhood pet shop needed some office help, so the owner posted a sign in the window: "HELP WANTED: Must be able to sort mail and use the computer. Must be bilingual."

In the afternoon, a dog trotted into the store, wagging his tail, and barked at the sign repeatedly. The owner finally realized he wanted the job. Perplexed, he said, "Sorry, boy. You have to be able to sort mail."

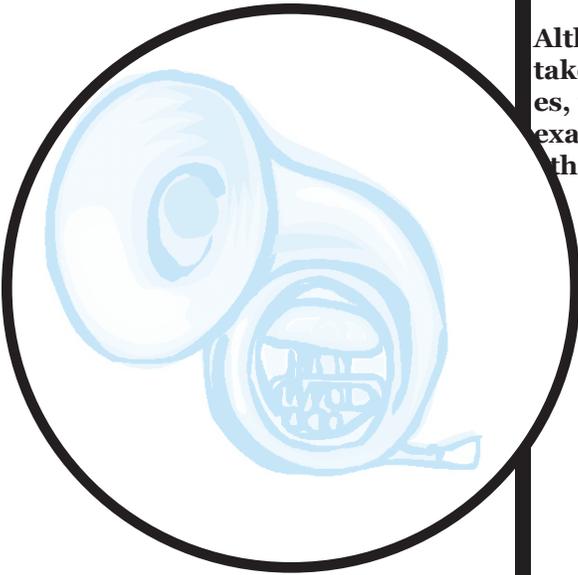
The dog hopped up on the counter where the day's mail was stacked, and used his nose to sort the packages and envelopes into separate piles—junk mail, invoices, checks, and the like.

The owner didn't know what to do, so he took the dog in back to the office and showed him the computer. The dog hopped on the chair, logged on, and began surfing the Web for pet sites.

Stunned, the owner sat down and tried to think. The dog waited patiently. Then the owner said, "But you have to be bilingual."

The dog opened his mouth and replied, "Moooooo."

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.

<i>Amusement Ride Company</i>	<i>\$43,795.41</i>
<i>Broadband Wireless</i>	<i>\$189,337.00</i>
<i>Candy Manufacturer</i>	<i>\$69,895.45</i>
<i>Cement Company</i>	<i>\$19,135.00</i>
<i>Church</i>	<i>\$12,845.00</i>
<i>Commercial Printing</i>	<i>\$26,684.00</i>
<i>Folding Carton Mfg.</i>	<i>\$191,073.29</i>
<i>Food Manufacturer</i>	<i>\$17,725.65</i>
<i>Race Track</i>	<i>\$82,861.62</i>
<i>Restaurants</i>	<i>\$32,940.37</i>
<i>Smartphone Mfg.</i>	<i>\$66,320.44</i>
<i>Vineyard</i>	<i>\$34,863.86</i>

Tax Tidbits

California Is One of Five Worst States for Retirees

Kiplinger's says in terms of personal finances, California is one of the five worst states for retirees to live, according to a report published in the October issue of Kiplinger's Personal Finance magazine "California is a retiree's tax nightmare. Although Social Security benefits are exempt, all other forms of retirement income are fully taxed. With a top rate of 10.30 percent (and rising to 10.55 percent, on taxable income of more than \$1 million), Golden State residents pay some of the highest income taxes in the country."

Blast From the Past

"The old workload or current services method of budgeting has failed. It has driven spending higher and higher without proper evaluations of programs. There should be re-justification of programs on some regular basis."

Former Cal-Tax President Larry McCarthy, January 8, 1993

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Property Tax Update

*We've Holidays and happy days,
and memory days galore
And when we've toasted every one,
I offer just one more
So let us lift our glasses high,
and drink a silent toast
To the day, deep buried in each
heart
that each one loves the most*