

## BUSINESS INVENTORY

Kris Chaco, Esq., Senior Tax Consultant

As a rule, all forms of tangible personal property are taxable in California, unless specifically exempt from property tax. Cal. Revenue & Taxation Code (R&T) §219 exempts "Business inventories" from taxation. Cal. R&T §129 defines "Business inventories" to include goods intended for sale or lease in the ordinary course of business. Cal. Admin. Code tit. 18 §131 explains the "Business inventory" tax exemption further. The phrase "goods intended for sale or lease" means property acquired, manufactured, produced, processed, raised or grown which is already the subject of a contract of sale or which is held and openly offered for sale or lease or will be so held and offered for sale or lease at the time it becomes a marketable product. Property which is ready for sale or lease must be displayed, advertised or otherwise brought to the attention of the potential purchasers or lessees by means normally employed by vendors or lessors of the product" 18 CCR §133(a)(1)(B).

Recently, we represented a taxpayer before the Assessment Appeals Board (Appeals Board) who, in the ordinary course of business, leased equipment to other companies engaged in manufacturing, production, or provided some form of service. This taxpayer had been in business for a considerable period of time. During that time, the Assessor's Office took a cursory look at the facts and denied the exemption based on some analysis. Prior to our involvement, the Assessor's position was accepted and the property was assessed.



Once retained, we analyzed the facts of the case and the law with respect to this taxpayer and came to the conclusion that the Assessor was incorrect in his analysis. This exemption was denied by the Assessor based on an incorrect assumption of facts and misapplication of law. For the last 5 years, we tried to convince the Assessor that our position was correct. The Assessor disagreed resulting in a hearing at the Appeals Board. Over 3 days, both sides presented evidence about the law as applied to the facts of the case. The Appeals Board recently published the results with a successful outcome for the taxpayer.

*Continued...*

# Double Assessment of Leasehold Improvements

Adrian Romero, Tax Consultant

How is the assessor's office assessing your real property and business personal property? If you are a lessee with a triple net lease you might be paying taxes twice on leasehold improvements. If you have leased a building that had already been improved by a previous occupant you might be a victim of double taxation of Leasehold Improvements.

The assessor's office is divided between the real property division and the Business Personal Property division, and many times the two do not always effectively communicate with each other what the other is assessing. The Real Property divisions purpose is suppose to value the land and building improvements, while the Business Personal Property function is suppose to value personal property and fixtures. However, leasehold improvements can get 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 classified as fixtures, if they are integral to the business process. Since the lessee, rather than the owner of the building normally pay for leasehold improvements, they are reported on the annual business property statement form 571L. The business personal property division processes the 571L, and the assessor's office tends to want to value them along with the rest of the lessee's business personal property and fixtures.

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. 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.

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. At other times, 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.

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Business Inventory - *Continued from page 1*

The "Business inventory" exemption is fact sensitive. Any event, whether minor or major, could determine whether the exemption is granted or withheld. The exemption could also be hampered by the County's understanding of the law. History has shown, based on the experience of the taxpayer, that the Assessor's Office has denied valid exemptions.

Cal. Admin. Code tit. 18 §324(b) grants the Appeals Board jurisdiction to determine the classification of property that is the subject of the hearing. Taxpayers, by filing a timely appeal, could request that the Appeals Board properly classify their personal property as Business Inventory in accordance with R&T §129. If there is any inclination that your equipment should be classified as "Business inventory" or if you require a review to determine the proper classification of your equipment, we here at Property Tax Assistance stand ready to provide such a service.

# TOOTING OUR HORN!

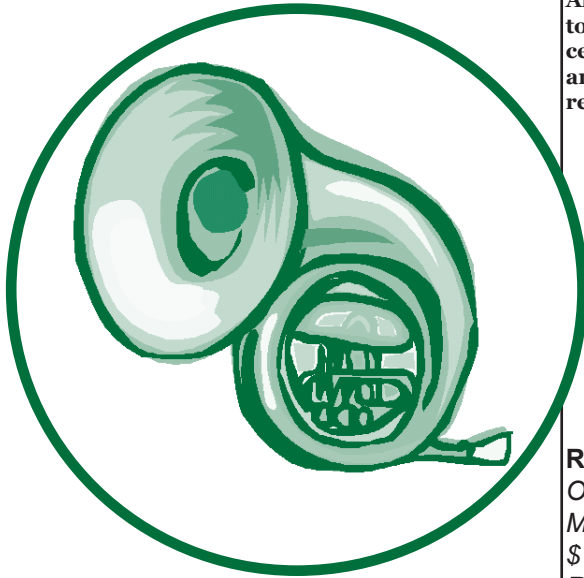
Although this is an informational newsletter, we would like to take the opportunity to brag about a sampling of our successes, from various industries, in the last quarter. These are a few examples of the refunds that our clients have received from the county, due to our work.

### Personal Property

<i>Cement Mfg.</i>	\$144,333.74
<i>Dairy</i>	\$27,958.91
<i>Datacenter</i>	\$1,302,316.50
<i>Mining</i>	\$288,026.42
<i>Paperboard Container Mfg.</i>	\$163,018.27
<i>Plastic Mfg.</i>	\$8,934.44
<i>Printing Industry</i>	\$88,894.72
<i>Semi Conductor</i>	\$65,679.85

### Real Property-California

- Office Property - Orange County - \$354,585*
  - Multifamily Property (3 Properties) - Riverside County - \$113,555*
  - Retail Property - San Bernardino County - \$28,744*
  - Storage Property (2 Properties) - Los Angeles County - \$42,715*
  - Industrial Property - Los Angeles County - \$364,112*
  - Industrial Property - Riverside County - \$26,344*
  - Storage Property (4 Properties) - Orange County - \$52,458*
  - Industrial Property - San Diego County - \$15,148*
  - Multifamily Property - Orange County - \$71,614*
  - Industrial Property - Ventura County - \$45,970*
  - Commercial Land - Los Angeles County - \$21,022*
  - Industrial Property - Los Angeles County - \$87,084*
- Washington**  
*Multifamily Property (3 Properties) - \$56,291*
- Georgia**  
*Hotel Property - \$19,789*



## Tax Tidbits

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# A Way to Save on Your Property Taxes

Cristhian Tucker, Tax Consultant

It is always surprising to find out how many companies fail to keep an accurate record of their fixed asset detail. Many accounting personnel believe that it is not necessary to take steps to write off older disposed of items that are currently on their books. They are under the assumption that older pieces of personal property equipment will already be fully depreciated and therefore will have no effect on their property taxes. Unfortunately this assumption is incorrect. Personal Property reported to your county is never fully depreciated for property tax purposes.

By way of simple example, furniture purchased in 1980 and reported on your 2012 business property statement will retain an assessed value of 12% (Los Angeles County). The problem can be further compounded if the business property maintained on your financials and reported to the county was disposed of some time ago and are bigger ticket items like large pieces of machinery. Those taxes based on a minimum assessed valuation factor, can add up quickly when the reporting error is repeated over multiple years or have an older piece of machinery with a high purchasing cost.

Therefore, it is paramount, to keep an accurate and well-documented fixed asset record. This can be accomplished by simply taking a physical inventory of your fixed assets whenever possible or going over your asset list with the company's plant manager and support personnel. These simple actions will allow you to save on your tax bill and keep future headaches away.

## The eyes of compassion

On a cold evening in Virginia in the 18th century, an old man trudged toward his distant home. As he stopped to rest, he spotted several men on horseback headed down the road in his direction. He watched as the first went by, and then the next, and then a third.

Finally, as the last approached, the old man lifted a hand. "Sir," he called out, "could you give an old man a ride home?"

The horseman stopped and instantly replied, "Certainly." He helped the old man up onto his horse, then mounted himself and rode off.

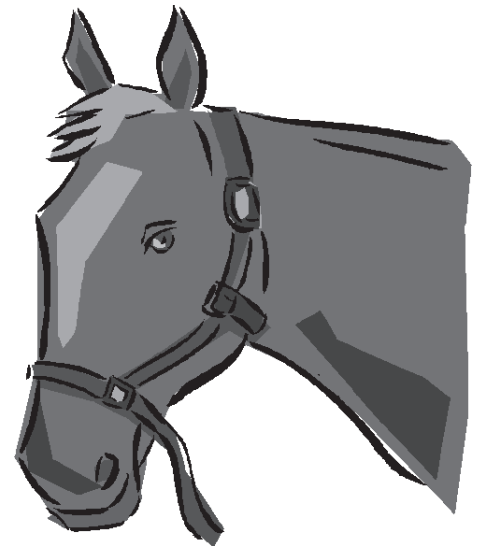
They soon reached the old man's cottage, where he thanked the horseman for his assistance.

"You're most welcome," said the rider, "but I am curious. I saw three people ride by ahead of me, and yet you didn't lift your hand to ask them for help. What made you so certain that I would help you?"

"I've been around for a long time," said the man, "and reckon I know people pretty good. When I looked into the eyes of those other riders I could see they wouldn't care about my situation. But when I saw your eyes, I saw kindness and compassion there. I knew that you would welcome the opportunity to give me assistance in my time of need."

"Thank you for your kind words," the horseman replied. "I hope I am never so busy with my own affairs that I fail to respond to the needs of others with kindness and compassion."

Legend has it that the horseman was Thomas Jefferson.



# Quotes

**Family is just an accident . . .  
They don't mean to get on your  
nerves. They don't even mean to  
be your family, they just are.  
—Marsha Norman**

**Family members can be your best  
friends, you know. And best  
friends, whether or not they are  
related to you, can be your family.  
—Trenton Lee Stewart**

**Each day of our lives we make  
deposits in the memory banks of  
our children.  
—Charles R. Swindoll**

**When your mother asks, "Do you  
want a piece of advice?" it's a  
mere formality. It doesn't matter  
if you answer yes or no. You're  
going to get it anyway.  
—Erma Bombeck**

**Leaders must be close enough to  
relate to others, but far enough  
ahead to motivate them.  
—John C. Maxwell**

**There are some people that if they  
don't know, you can't tell them.  
—Louis Armstrong**

**Family life is too intimate to be  
preserved by the spirit of justice.  
It can be sustained by a spirit of  
love which goes beyond justice.  
—Reinhold Niebuhr**

**I love people who make me laugh.  
I honestly think it's the thing I  
like most, to laugh. It cures a mul-  
titude of ills. It's probably the  
most important thing in a person.  
—Audrey Hepburn**

## Preparation for Audit

Kris Chaco, Esq., 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 penal ties.
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.

### Why did the auditor cross the road?

Because he looked in the file and that's what they did last year.

# PTA

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## Property Tax Update



All of us at Property Tax  
Assistance Co., Inc. wish You  
and Yours a Happy and  
Prosperous New Year!