PTA PROPERTY TAX UPDATE

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SUMMER 2014

Review of the 2014 Unsecured Tax Bill
Penalty Assessments & Review of Leased Equipment

Gilbert Arciba, Sr. Tax Consultant

The filing deadline for the 2014 Business Property Statement (BPS) is behind us and the Assessors' Office is working to close the tax roll for 2014. Those companies who failed to file timely will be receiving a penalty added to the tax bill. Pursuant to Revenue & Tax Code, Section 441, the property statement shall be declared to be true under the penalty of perjury and filed annually with the assessor between the lien date and 5PM on April 1. The penalty provided by Section 463 applies for property statements not filed by May 7. As prescribed in section 441, taxpayers receive an additional month to submit their BPS without incurring a penalty assessment.

Taxpayers will typically complain to the assessor with no avail. The assessor does not have the authority to waive or abate the 10% penalty. However, there is an avenue of contesting this penalty. The taxpayer or their agent must file an assessment appeal in a timely manner and check the box titled PENALTY ASSESSMENT. By filing timely and checking the correct box, taxpayer's preserves there right to state their reasons for filing an untimely BPS before the Assessment Appeals Board. The Board has the final ruling on abating this penalty.

In addition, I would advise you to review your leased equipment assessments. Often, we come across duplicate assessments on leased equipment. I personally have worked on leased equipment that has been assessed three times. The lessee will pay taxes on the equipment held on lease. Typically, the lessor declares equipment to the jurisdiction where the equipment is located. However, depending on the lease structure, taxpayers will capitalize equipment and report this cost on their Property Statement creating a duplication. In addition, we have worked on scenarios where equipment is bundled into a lease after it was purchased and capitalized. Their local tax assessor will issue a bill based on a lease referral, despite this cost being recorded on their books and reported on the Property Statement. It is important to review these leases to avoid duplicate taxes, verify accuracy of the cost and review the fair market value of the assessment.

As your tax bills begin arriving, I suggest taking the time to review for penalties or leases. Filing the initial appeal provides an excellent opportunity to review the overall assessment and in the process securing a penalty abatement and or leased equipment review. Property Tax Assistance Co., Inc. is a seasoned tax firm that can assist in resolving and addressing tax penalties, in addition to any other property tax issues.

Taking a Look at Obsolescence and Property Tax

Aaron Smith, Tax Consultant II

Obsolescence is one of those words that when you hear, your mind immediately thinks of old, decaying equipment sitting somewhere. It's not one of those words that makes you feel good. But, when you are talking about obsolescence in the property tax realm, it can be a way to put money back into a business. Obsolescence for property tax assessments is used when calculating an accurate market valuation for the annual property tax assessment. It's a way to calculate the additional reduction in value, after physical depreciation, caused by unforeseen circumstances that change or affect the use of the asset since it was made.

To discover and calculate obsolescence, which type of obsolescence is affecting the assets will need to first be identified; **functional** or **external** (also referred to as economic).

Functional Obsolescence is a loss in value as an asset is unable to adequately perform the process or duty it was designed to do. It's caused by the availability of newer technology, improvements to production, changes in design, and inadequate or super-adequate design. Typically, the properties often incurring function obsolescence may be; high tech facilities with rapid technology changes, facilities with redundant and/or inactive production lines, bottlenecked processes, and facilities with high operating costs when compared to a modern process.

Once identified if a facility contains functional obsolescence, either excess capital costs or operating costs will need to be identified to understand how exactly functional obsolescence is fiscally affecting the property's value. Excess Capital Costs are recognized in comparing reproduction cost new (cost to create an exact replica) and replacement cost new (modern, substitute property providing the same utility). The difference is the excess capital costs and represents the cost of the property that is the older technology. Excess Operating Costs of a property are calculated as excess utilities (energy), excess operating and maintenance labor, excess material usage, and also increased tax/fee liabilities. These costs can be calculated to develop the excess operational cost associated with the property.

External Obsolescence is a loss in value due to outside or external factors to the property of process. As defined by the name, these external factors include product market demand, government restrictions, unfavorable location and/or prices. The impacts these factors can have on the property may include under-utilization of property capacity, decline in production, net income losses, and even a decline in the skilled labor workforce. External Obsolescence can either be permanent or temporary, usually varying from year to year. These declines, though, must be caused by external factors and not business decisions as business decisions can be considered curable.

External Obsolescence can be quantified by calculating the cost to capacity. This uses the designed capacity, the current utilization to calculate, and a scale factor that takes into account the cost to increase capacity. The equation provides a reduction percentage that can be applied to the depreciated value for a reduction in value. Additionally, external obsolescence can be calculated by identifying the present value of the excess operational costs from the external forces. Various operating statistics can also be compared from within the industry pertaining to the property (margins, ROI, utilization, etc.).

Some easy ways to start investigating for functional or economic obsolescence in a property is to ask some questions about the property: Can this be done more efficiently? Do newer models have lower purchasing and/or operating costs? What is the market demand for the product versus capacity? Are there governing restrictions to the process or sales of the product? How does the property operate compared to industry statistics? Would the process benefit from being in a different location?

If any of these questions spark ideas of functional or external obsolescence, then it's mostly likely that there is obsolescence that could be quantified. Once quantified, the findings can be made and presented to the county assessor's office to reduce the assessment. One suggestion is to help the assessor fully become aware of the property's purpose and what issues are affecting it, causing obsolescence.

While these issues are generally not beneficial to a company or organization, a positive side is that there may be property tax savings to be achieved.

Quotes

"The most precious gift we can offer anyone is our attention. When mindfulness embraces those we love, they will bloom like flowers."
__Thich Nhat Hanh

Happiness does not come from doing easy work but from the afterglow of satisfaction that comes after the achievement of a difficult task that demanded our best.
—Theodore Rubin

If we knew what it was we were doing, it would not be called research, would it?
—Albert Einstein

People rarely succeed unless they have fun in what they are doing.
—Dale Carnegie

If the family were a fruit, it would be an orange, a circle of sections, held together but separable-each segment distinct.
—Letty Cottin Pogrebin

Before you are a leader success is all about growing yourself. When you become a leader, success is all about growing others.
—Jack Welch

America is a tune. It must be sung together.
—Gerald Stanley Lee

This nation will remain the land of the free only so long as it is the home of the brave.
—Elmer Davis

WHY AUDITS ARE A GOOD THING!

David L. Gangloff Jr., Eaq. CEO & Principal

In one recent case, after the audit was completed the taxpayer was unhappy with the results and filed assessment appeals for all years under audit at one time. Eventually, those audit appeals resulted in assessment reductions of approximately 65% for each year under audit and almost $4,000,000 in tax refunds. Whereas the size of the refunds is somewhat unusual - mostly because taxpayers do not generally pay this much in personal property tax - the concept of reducing assessments during audit is not at all unusual.

If you are like most taxpayers you dread the idea of a county auditor-appraiser coming in and examining your books. This is so regardless of any doubts you may have in regards to the way that you reported your property to the county in the first place. You may believe that you reported everything according to the instructions and yet the idea of an audit sends shivers down your spine. On the other hand, you may have reported in an aggressive fashion and now worry about what the auditor may change. Additionally, you may be so busy with other pressing matters that the idea of dealing with an auditor-appraiser may send you off the deep end.

So why are audits a good thing you might ask. The reason that audits are a good thing is because they allow you to review four years of assessments at one time. If the auditor-appraiser discovers that property has been under assessed the auditor-appraiser is required to issue an escape assessment. If, however, the auditor-appraiser concludes that the property has been over assessed the auditor-appraiser is required to let the taxpayer know that he is entitled to file a claim for refund. Considering that the assessor uses a mass appraisal technique to value property, any doubt as to the value of the property when the Business Property Statement is being processed is resolved in favor of higher assessments.

The audit is the taxpayers first real chance to sit down with an appraiser and discuss the value of the property. If you can convince the auditor-appraiser that the mass appraisal techniques do not adequately appraise the value of your assets and that a reduction is in order, you will receive a refund.

Of course, many auditor-appraisers resist the "appraiser" aspect of their title. They prefer to think in terms of being an "auditor" only. In this case you may have to file an assessment appeal at the end of the audit and take your case to the local assessment appeals board. You may file an assessment appeal only when the auditor-appraiser finds property "subject to escape assessment." What is defined as property "subject to escape assessment" may have some nuances that will prevent the filing of an appeal, but at the very least, the local assessment appeals board has the responsibility to determine if property was "subject to escape assessment."

Whereas there is no doubt that there is extra work with an audit, if you keep in mind that you have a good opportunity to reduce four years of assessments at one time and receive refunds, the time and energy spent on the audit actually makes money for your company. It is not unusual for us to see assessments reduced after audit by 15-50% or even more. So the next time an auditor comes calling, think of it as an opportunity rather than a nuisance.

TaxTidbits

Manufacturing and Research & Development Equipment Exemption

Overview

A new law beginning on July 1, 2014 allows manufacturers and certain research and developers to obtain a partial exemption of sales and use tax on certain manufacturing and research and development equipment purchases and leases. To be eligible under this law, you must meet all three of these conditions:

Be engaged in certain types of business, also known as a “qualified person.”

Purchase “qualified property.”

Use that qualified property for the uses allowed by this law.

www.boe.ca.gov/sutax/manufacturing_exemptions.htm

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.

Business Personal Property

Casino	$30,521.38
Cement Manufacturing	$54,941.50
Clothing and Furnishings Wholesalers	$120,507.85
Coffee and Tea Manufacturing	$245,503.69
Dairy Farms Manufacturing	$188,150.33
Data Centers	$201,213.97
Gaskett & Sealing Manufacturing	$26,580.43
Grocery Stores	$47,248.26
Grocery Wholesaler	$176,524.89
Hotel	$191,129.43
Instrument Manufacturing	$46,979.00
Oil and Gas Well Drilling	$191,807.27
Paper Products Manufacturing	$36,112.14
Plastics Manufacturing	$535,458.09
Property Management	$45,474.00
Radio & TV Equipment Mfg.	$95,212.00

Real Property
California

Industrial Property (8 Prop.)-LA County
$272,420
Multifamily Property-LA County
$44,998
Multifamily Property-Orange County
$41,502
Storage Property (2 Prop.)-Orange County
$20,350
Retail Property-Placer County
$12,650
Storage Property-Placer County
$18,268
Multifamily Property-San Bern. County
$166,422
Industrial Property-San Diego County
$35,483

California State Legislature Considers Tax Agent Registration Bill

Christopher Larsen Tax Consultant II

A little over a year ago, the Los Angeles County Board of Supervisors enacted a tax agent registration ordinance in response to the allegations and scandal surrounding John Noguez, the Los Angeles County Assessor. This ordinance requires all tax agents practicing in Los Angeles County to register prior to working on property tax appeal cases. Subsequently, several other counties in the State of California have also considered adopting their own versions of a tax agent registration ordinance. This is a cause for concern, because having many separate counties with their own unique registration legislation creates additional liability for taxpayers, as well as a lack of uniformity in the registration process.

However, the California State Legislature is currently considering Assembly Bill 2415 (authored by Assembly Member Phil Ting). Once passed, AB 2415 (Ting) would require a Property Tax Agent who seeks to influence official action to register with the Secretary of State and pay a registration fee. Several other states, including Texas, Arizona, and Indiana already have similar laws requiring the registration of tax agents at the state level. The implementation of a uniform statewide registration standard in California would help ensure that county property tax assessment practices are equal and uniform throughout the state, and would eliminate the multiple fees and additional burdens associated with many separate registration processes administered at the county level.

The Customer is King (or Queen)

The founder of the department store Neiman Marcus, according to a story, was firm when he told his son Stanley to issue a full refund to a woman who'd damaged an expensive dress purchased at their store.

It wasn't the store's fault the woman hadn't taken proper care of the dress, Stanley argued. What's more, the manufacturer would never make good on the return, so they'd have to eat the entire amount. But the elder Marcus stood firm. The woman didn't buy the dress from the manufacturer, he declared. She bought it from us. He further explained that it cost about $200 to recruit a new customer, and he wasn't going to lose a $200 customer over a $175 dress. He ordered Stanley to issue the refund—and do it with a smile.

It turned out to be sound advice. Stanley refunded the woman's $175, and in the years to come, the customer spent more than $500,000 shopping at the store.

PTA
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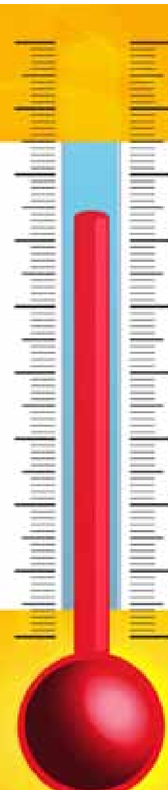
Property Tax Update



You know its Summer when...

The trees are whistling for the dogs.

The best parking place is determined by shade instead of distance.

Hot water now comes out of both taps.

You can make sun tea instantly.

Your biggest bicycle wreck fear is, "What if I get knocked out and end up lying on the pavement and cook to death?"

The potatoes cook underground, so all you have to do is pull one out and add butter, salt and pepper.

Farmers are feeding their chickens crushed ice to keep them from laying boiled eggs.

The cows are giving evaporated milk.