

Covid-19, Proposition 15 and CATA

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What do all of these have in common? They all have the potential to have a major impact on the property tax system in California. Two of them can create havoc for property tax assessments while one, the California Alliance of Taxpayer Advocates (CATA) – a group of tax professionals, can ensure that properties are fairly valued for property tax purposes. First, let me start by saying I have not seen at any time in my 35-year career representing property taxpayers a time of more uncertainty relating to property taxation. With Covid-19 having a high probability of significantly affecting property values and Proposition 15 potentially multiplying our client's property taxes by an untold amount, our clients have been extremely concerned about their future property tax liabilities.

Covid-19 is in the process of having a significant impact on property values in California. The valuation of almost all property in California is impacted in one way or the other due to this pandemic. The downturn in most property values is widespread and will be a problem for the foreseeable future.

Proposition 15, the Split Roll Initiative, if passed in the November 3rd election, will have a profound impact on almost all commercial and industrial properties. Currently, commercial and industrial properties are assessed at their purchase price and their values are limited to a 2% increase each year. If Proposition 15 passes commercial and industrial properties will be assessed at their current fair market value at least every three years. This will increase the assessor's workload so dramatically that mistakes will inevitably be made in property assessments.

Property Tax Assistance Co. Inc. (PTA) believes that Proposition 15 is bad policy and that it should be defeated in November. The current system has worked remarkably well for Californians in creating a property tax system that has been largely resistant to major fluctuations of the tax base since Proposition 13 was passed by the electorate in 1978. We urge you to vote "NO" on Proposition 15.

PTA was a founding member of CATA when it was formed about 10 years ago as a trade organization of professionals who represent taxpayers for property tax purposes. Over the years CATA's membership has fluctuated based on concerns that CATA members had with various legislation and regulations that were proposed. At its peak CATA had about 100 active members. Currently there are approximately 68 active members. Whereas not all people who represent taxpayers in California are, or have been, a member of CATA, the best and the brightest property tax professionals in California are members of CATA. Whereas CATA professionals are very competent, 100 professionals or so is certainly not enough capacity to deal with the tens of thousands of new assessments and problems associated therewith.

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Double Taxation - It Happens More Often Than You Think

Joshua Gangloff, Tax Consultant

What is double taxation in property tax terms? Well it is pretty much exactly what it sounds like. Double Taxation occurs when the County taxes you twice for the same equipment. This form of taxation is illegal in California, but it still occurs more often than you think and there is a chance it is currently happening to you!

So how does double taxation occur? Mainly, double taxation occurs because the County has two divisions that are supposed to assess all of your property in California. The Real Property Division is responsible for assessing Land and Improvements and will send out a Secured Tax Bill. The other division is the Business Property Division. They are responsible for assessing your Personal Property and Fixtures/LHI. Fixtures are the items that most often get double assessed and double taxed. The reason behind this is that a fixture is personal property until it is affixed to the building. Once affixed to the building, it becomes Real Property and will typically sell with the Land and Building. Additionally, many times a landlord will put into their lease that any Tenant Improvements added to the building must remain in place and become the landlord's property once installed. This is where potential problems arise. If the landlord decides to sell the Land and Building, the Real Property Division will assess the purchase price of the property. However, as mentioned, the purchase price includes all fixtures and tenant improvements that also sold. Therefore, the Business Division is assessing the Fixtures on the Unsecured roll while the Real Property Division assesses the same Fixtures on the Secured roll. Clearly, the fixtures have now been assessed and taxed by both divisions of the Assessor's Office.

Another way that we see double taxation occur is through equipment lease agreements. Many times, a lessor will report an asset as being rented out on the lien date and be assessed by the County for that asset. Additionally, the lessee might report this asset on the annual Business Property Statement. In this situation, the county will be assessing the lessor and the lessee for the same asset.

So how do we stop the problem of Double Taxation? The easiest way to stop paying twice the amount you owe is to file an appeal. If you can identify these problems and prove to the Assessor that they double taxed you, then a refund for the taxes paid is warranted. In reality, proving to the Assessor that you have been overtaxed is easier said than done and will most likely be met with a lot of opposition. With that being said, we always recommend hiring property tax professionals who have addressed and successfully removed double assessments in the past to support your efforts. PTA has won countless double taxation cases at the Assessment Appeals Board and we are here to help you combat the double taxation problems that may be occurring.

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PTA believes that now is the time for taxpayers to be cognitive of the double whammy that may befall them after the election. Covid-19 is here already and if Proposition 15 passes there will be no shortage of work for property tax consultants that have helped California taxpayers throughout the years. Having said that, there certainly will be a shortage of property tax professionals capable of doing the work in California. You should have a conversation with PTA sooner rather than later because at some point all of the PTA and/or CATA professionals will be fully engaged with clients!



Tax Tidbits

California Counties Appeal Filing Deadlines,

COMING UP SOON.

Depending on your county

SEPTEMBER 15, 2020 or
NOVEMBER 30, 2020

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

Air Transportation Services	\$1,379,253.87
Automobiles new and used	\$409,690.69
Beverage Manufacturing	\$62,370.46
Dairy Farms	\$51,854.80
Data Centers	\$1,274,796.72
Gasoline Service Stations	\$47,908.98
Shipping and Transportation	\$36,703.25
Metal Products Manufacturing	\$189,980.53
Property Management	\$348,275.48
Supermarkets	\$410,731.04

PTA Real Estate Tax Division Real Property

Land – Maui County	\$85,404
Marina Property – Los Angeles County	\$37,686
Office Property – Orange County	\$39,256
Office Property – San Francisco	\$125,458



It's during our darkest moments that we must focus to see the light.

Aristotle

Discount for Ownership (Food Processing Equipment)

Travis Carlson, Sr. Tax Consultant

In a recent Assessment Appeals Board (AAB) hearing, we requested a 40% reduction in assessed value based on the appraisal concept commonly called "Discount for Ownership". It's a clunky name for a very simple concept that everyone is familiar with: once you drive a car off the dealership lot, it's no longer "new" and cannot be sold for the "new" price you just paid for it.

This discount concept generally does not comport with the Assessors' standardized depreciation tables used to value equipment, is very difficult to quantify, and will almost certainly be litigated at the Appeals Board. After years of presenting this issue, our team was finally able to convince the AAB to openly accept this well-known appraisal concept in their decision:

"The comparable sales data was nonexistent and only listings were provided (by both Applicant and Assessor). The AAB based their decision on the verbal testimony of Mr. xxxx pertaining to food manufacturing and refrigeration equipment. Mr. xxxx testified that the 'Owner Discount' concept applied to all the equipment in question, even brand new and unused. This concept was analogous to a new car losing value as it's driven off the lot.

The Assessor argued against the 'Owner Discount' concept stating that brand new and unused equipment should be valued at cost regardless of ownership duration. The Assessor failed to provide comparable sales to support this argument."

The AAB finally recognizing this appraisal concept is significant because it begins to set the precedent for future cases. In our experience, food processing equipment is a 10-50% Discount of Ownership, so depending on the size of the tax bill, this concept can have large implications on property taxes each year. We are excited to have this case as an example and look forward to seeing more cases won using this concept with larger reduction percentages.

THE PARROT

A young man named John received a parrot as a gift. The parrot had a bad attitude and an even worse vocabulary. Every word out of the bird's mouth was rude, obnoxious and laced with profanity.

John tried and tried to change the bird's attitude by consistently saying only polite words, playing soft music and anything else he could think of to "clean up" the bird's vocabulary.

Finally, John was fed up and he yelled at the parrot. The parrot yelled back. John shook the parrot and the parrot got angrier and even ruder. John, in desperation, threw up his hand, grabbed the bird and put him in the freezer. For a few minutes the parrot squawked and kicked and screamed.

Then suddenly there was total quiet. Not a peep was heard for over a minute. Fearing that he'd hurt the parrot, John quickly opened the door to the freezer. The parrot calmly stepped out onto John's outstretched arms and said "I believe I may have offended you with my rude language and actions. I'm sincerely remorseful for my inappropriate transgressions and I fully intend to do everything I can to correct my rude and unforgivable behavior."

John was stunned at the change in the bird's attitude. As he was about to ask the parrot what had made such a dramatic change in his behavior, the bird continued, "May I ask what the turkey did?"

HAPPY THANKSGIVING!

Quotes

O, what a tangled web we weave
when first we practice to deceive!
--Sir Walter Scott

It's not what happens to you, but
how you react to it that matters.
--Epictetus

Start with what is right rather than
what is acceptable.
--Franz Kafka

It is better to be a lion for a day than
a sheep all your life.
--Elizabeth Kenny

Nothing in life is to be feared, it is
only to be understood. Now is the
time to understand more, so that we
may fear less.
--Marie Curie

We the people are the rightful
masters of both Congress and the
courts, not to overthrow the
Constitution but to overthrow the
men who pervert the Constitution.
--Abraham Lincoln

We must develop and maintain the
capacity to forgive. He who is devoid
of the power to forgive is devoid of
the power to love. There is some good
in the worst of us and some evil in the
best of us. When we discover this, we
are less prone to hate our enemies.
--Martin Luther King, Jr.

Courage is what it takes to stand up
and speak; courage is also what it
takes to sit down and listen.
--Winston Churchill

Be not simply good - be good for
something.
--Henry David Thoreau

Another argument to reduce tax liability.

Nathan Gangloff, Tax Consultant

Have you ever wondered whether your product line could be considered self-constructed property? It may be surprising to find out that the difference between a built assembly line and an assemblage of completed machines would have an influence on property taxes. A recent court case has helped to clarify the difference between these two instances and made a ruling on specific costs that affect the assessment of this type of machinery and equipment. *Church v. San Mateo County Assessment Appeals Board*, certified for publication on July 16, 2020, has ruled that the assessor cannot use book expenses, including but not limited to, actual or implied financing, debugging, and/or engineering when assessing equipment that is already in a finished state. The company affected by this had a line of machinery used in the production of pharmaceuticals, which included machines that could sell by themselves on the open market. Since each machine in the line was technically its own completed machine, the court found that the additional labor costs did not actually improve on the machinery and, therefore, reversed the trial court's findings. This will be a valuable result in the future as it helps to define which costs the assessor can pick up in an assembly line scenario. Many companies acquire individual machinery that is already completed upon purchase, and the assessor may potentially assume that any additional costs to get the machines operating are assessable. Now with the results from *Church v. San Mateo*, an argument can be made to reduce tax liability when analyzing whether or not that equipment is already in a "finished state."



PTA

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Property Tax Update

