PUBLICATION

Advice for Employers in This Difficult Economy, Part 3

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Part III: *Property Tax Strategies in Unprecedented Economic Times*

Over the recent past and continuing today, headlines and news reports have reported the demise of U.S. real property values. The falling real estate market and the consequent reduction in property values are not limited to residential property. In fact, the decline in commercial and industrial property values may rival the fall in residential values.

Increasing Values in this Economy

Despite the fact that property values are falling, there has not been a resulting decrease in property tax assessments in many jurisdictions. Rather, property tax assessors seem to be continuing to follow the historic trend which points to ever-increasing values for property tax assessment purposes.

For commercial and industrial companies, proper management of their property tax liabilities this year will be a difficult but critical task. Over-valued real and tangible personal property for tax purposes not only results in higher tax bills for the current year, but those inflated values can adversely affect tax liabilities for many future years as well. Nevertheless, even in the face of fiscal pressures faced by counties, parishes and municipalities, it is possible for commercial and industrial property owners to challenge tax valuations and to obtain reductions when warranted by proper proof. The key is understanding how your values are determined for property tax purposes and focusing on whether those values truly reflect your properties' fair market values in this economy.

Cost Approach for Commercial and Industrial Valuation

The proper tax valuation for commercial and industrial property is the property assessor's most difficult valuation challenge. With respect to residential property, the assessor normally has significant sales activity for comparison purposes, so that it is relatively easy to determine an appropriate fair market value by looking at those comparable sales. On the other hand, for commercial and industrial property there is generally little or no comparable market activity. As a result, and particularly as to real property, the assessor usually has to rely on a cost approach to determine the value of commercial and industrial property improvements.

In using a cost approach to value commercial or industrial real property, assessors rely on cost manuals (updated periodically) that purportedly reflect replacement costs in the local jurisdiction. The extent to which the information in such manuals reflects an accurate tax value in today's unprecedented economic times is open to question and must be analyzed. Additionally, factors such as physical, functional and external obsolescence, which may be specific to your particular property, must now be analyzed, and where appropriate, presented to the assessor as legitimate reasons for discounting your commercial or industrial property values.

Appealing the Tax Valuation

Timing is crucial. Taxpayers typically have only a limited period of time in most jurisdictions to seek a reduction in property values. Further, many deadlines for seeking relief in such jurisdictions are hard and fast prerequisites which cannot be extended or waived. Moreover, the applicable deadlines are often shifting dates dependent upon issuance of a valuation change notice, other similar notification from the property tax assessor's office, or simply the period in which the assessor's records are open for inspection by taxpayers.

Commercial and industrial property owners must be aware that many jurisdictions in fact do not issue notices when there has been no change in the tax value from the prior year, even though the market value of your particular commercial or industrial real property may have declined significantly because of the depressed economic conditions and/or a variety of other reasons. For example, assessors and other officials in states like Georgia and Tennessee only send notices where there is a value change. Owners must be proactive in such circumstances to protect the rights of their company.

As is seen in the following chart for real property taxation, the assessment dates and appeal deadlines vary greatly between states. Nonetheless, this chart will generally illustrate the important events and time restraints faced by taxpayers wishing to challenge real property assessments:

	Assessment Date	**Valuation Notice/Books Open**	**Appeal Deadline**
Alabama	October 1	Varies	10 days after Value Notice
Arkansas	January 1	July	3rd Monday in September
Florida	January 1	July 1	25 days after Value Notice
Georgia	January 1	May - August	21- 45 days after Value Notice
Kentucky	January 1	1st Monday in May	3rd Monday in May
Louisiana	January 1	August - September	15 days after Book Opening date
Mississippi	January 1	June - July	1st Monday in August
North Carolina	January 1	Varies	30 days after Value Notice
South Carolina	January 1	June - July	90 days after Value Notice
Tennessee	January 1	April - May	Varies, County Boards of Equalization meet June 1
Texas	January 1	April - May	30 days after Value Notice
Virginia	Jan. 1 or July 1	Varies by Locale	Varies by Locale

The foregoing chart is offered for illustrative purposes only. Virtually every state listed in the chart could be footnoted to reflect numerous exceptions. (For example, Orleans Parish is the only parish of Louisiana's 64 parishes to require payment of taxes by January 31st based on valuation notices from August 15th through August 30th of the preceding tax years. The taxes are due by January 31st of the year, so that Orleans parish taxpayers prepay their homeowner's and business property taxes.) The chart essentially provides a rough idea about time limits, but should not be relied upon as definitive proof for the required timing in preparing and filing an appeal.

Commercial and industrial property owners also must further be aware that there may be timing differences between local jurisdictions within a particular state. Still further, such property owners also must be aware that the valuation of tangible personal property for tax purposes varies significantly between jurisdictions; such owners must be particularly focused on the timing for filing any reports required by the taxing jurisdiction as well as the numerous justifications for claiming reductions or non-standard valuations as to those personal properties.

Property tax appeals, whether pursued administratively or within the courts of a particular jurisdiction, can in fact be complicated and time consuming ventures with pitfalls for the unwary. Nonetheless, a successful challenge to an overvaluation will result in savings in both the current as well as future years.

Summary

Assessors are under increased pressure from local governments to assist in increasing property tax revenues as other sources of governmental revenues decline. Now, commercial and industrial property owners should begin developing a strategy for insuring that their companies are not over-paying property taxes. Professional representation is not only recommended, but is essential in many instances, particularly where more complex commercial and industrial real or tangible personal properties are involved. Once the appropriate strategy is identified, those property owners should begin to preserve their companies' rights to contest overvaluations.