



## **Local Property Taxes – Are You Being Taxed at Fair Market Value?**

A New Year is upon us! It is a time to reflect on things past and a time to begin looking ahead to a brighter future. For many small business owners, 2009 was a tough year. Everyone is looking for ways to improve their bottom line in 2010. Here at Large and Gilbert, we are looking at ways our clients can conserve cash, which certainly includes paying less tax.

We know that income taxes are at the forefront of Taxpayer's minds at this time of year, but we want to make sure that you do not miss out the potential for lowering some of your local taxes as well. Many of you have recently paid or at least received invoices from your local counties for both real property taxes and business and personal property taxes. Many of you probably wondered if your county was taking into account the current state of the economy in determining the fair market values of your property before assessing your tax. We want to discuss this process with you in two parts, real property and personal property, and make you aware of how you can be proactive to put yourself in a good position to dispute unreasonable tax assessments this upcoming year.

### **Real Property Taxes**

Real Property Taxes are assessed on real estate and administered by each county's Board of Tax Assessors. Typically, every year some real property in the county will have valuation adjustments based on a review of real estate sales and foreclosure data in areas of the county. However, many times the value of real property is unchanged from year to year by the county assessor. This appears to be especially true in an economy of declining values. In a case where your property valuation is unchanged from a previous year, the county is not required to send you a notice of assessment early in the year with a 30 or 45 day right to appeal their valuation.

The only item you will receive from the county is your invoice toward the end of the year, and at that point, your appeal rights do not exist. This does not seem fair, but there is a proactive solution for those of you concerned about how your property is being valued and the associated ad valorem tax.

The ticket to having the tax assessors consider lowering the fair market value of your real property is to first file a Real Property Tax Return. This gives you an opportunity to let the county tax assessors know your position on what your property is worth. They will review your return, and then make a determination as to whether to accept or place a different value on your real property. It is likely that they will not agree with the fair market value you report to them, but they will be required to provide you with a notice of adjustment, which will give you appeal and hearing rights.

It is important when considering whether to file a return if it is worth your time, money, and efforts to go through this process. On average, tax assessments run slightly above 1% of the fair market value after considering the assessed value and local millage rates. There is some variation by county. For example, if you think your property is being over valued by the county by \$100,000, you are probably being taxed around \$1,000 too much each and every year (\$10,000 over a ten year period). Therefore, you can see that small disputes over your property value with the county may not be worth getting into. On the other hand, if the valuation discrepancies are determined to be large by you, it may be worth going to the extent of spending the money to have appraisals done to help build your case. We can point you in the direction of a qualified and affordable appraiser in that case.

The bottom line here is that most of us do not file real property tax returns and end up paying whatever the county assesses on your real property. It is something most of us do not even want to think about until November or December when the invoices come out. At that point, it is too late to appeal the assessment, and you are stuck paying a tax that you may not agree with. This year, consider being proactive, and filing a real property tax return with the county if you feel your property values have dropped significantly. Return due dates vary by county but are typically due either March 1 or April 1, which means time will be of the essence. We will be happy to assist you with this process and look forward to seeing the cash savings it will bring you.

### **Business and Personal Property Taxes**

Unlike real property tax returns, all businesses with tangible personal property exceeding a total of \$7,500 in fair market value are required to file a Business and Personal Property Tax return with the county. We assist many of our clients with the preparation of these returns annually. Business and Personal Property Tax Returns are also due typically on March 1 or April 1 varying by county.

Taxable items typically include all machinery and equipment that is not tagged for on road use, furniture & fixtures, inventory, supplies, etc. The most notable item for construction contractors is their heavy equipment.

In valuing this type of property, the county typically takes a historical cost approach and applies established depreciation factors. This methodology does not take into consideration current economic conditions and their effect on the current market value of the equipment. You do have appeal rights if you do not agree with the county's valuation of your personal property. There are two means for appealing your personal property valuation. First of all, a timely written appeal would need to be filed with the county tax assessor's office. The county will then review the appeal and decide whether to make changes to your valuation.

If you do not agree with the county's initial decision, you have a couple of choices as to how to proceed with your appeal process. You can submit an informal appeal to the Board of Equalization for a hearing before an independent panel that has no affiliation with the tax assessor's office. The Board will hear both the Taxpayer and the county's side of the dispute and render a decision. This too could be further appealed into Superior Court. One of the biggest advantages to appealing through the board of equalization is that it stays informal and costs are minimal to the Taxpayer. The Taxpayer does not have to be represented by an attorney, appraiser, or CPA at this event, but can do so if they prefer. However, the Taxpayer may want to consider having independent appraisals done on the property in dispute or bringing as much information to the table to be convincing to the Board.

Another option available in the appeal process is to keep everything more formal and go through Arbitration. In this setting, an attorney will be appointed by the Superior Court to be a referee to conduct hearings on the appeal. Also, each party may name an arbitrator on their behalf, which must be a licensed appraiser through Georgia Board of Real Estate Appraisers or an attorney. The findings of the arbitration process are non-binding and can be appealed into the Superior Court just as with the decision of the Board of Equalization. This route will be more costly to the Taxpayer due to the professional fees involved.

The bottom line is that you have to weigh the cost-benefit of challenging unreasonable valuations given by the county on your personal property. You can go to great lengths to try to prove that your property value is much less than the county's assessment by having appraisals done, presenting comparables, or providing data from recent equipment auctions. However, you need to keep in mind that the ad valorem tax savings is typically about 1% of the reduction in the fair market value of the property used for the assessment.

## **House Bill 318**

Finally, we want to be sure that our clients are aware of a favorable personal property tax law that was enacted back in May, 2009. For tax year 2010, an exemption from personal property tax is available for “Heavy Duty Equipment Motor Vehicles” up to \$100,000 of each piece of equipment’s fair market value.

“Heavy Duty Equipment Motor Vehicle” is defined by Georgia Code 48-5-506 to be an off road vehicle with all its attachments and parts which is self-propelled, weighs 5,000 pounds or more, and is primarily designed and used exclusively for utility services and maintenance, earth moving, construction, industrial, maritime, or mining uses, provided that such motor vehicles are not required to be registered and have a license plate.

We believe this exemption could save many heavy equipment contractors several thousand dollars on their personal property tax bill that comes out in late 2010. We will certainly be looking at this for our clients.

## **Parting Words**

We are here to help assist you with deciding whether it makes sense for you to get involved with a dispute with your county tax assessor, and if so, what avenues you should consider. We are committed to finding ways our clients can save more money during 2010. We wish you all a happy and prosperous 2010! Please feel free to contact us if you have any questions.

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