

AN OVERVIEW OF THE PROPERTY TAXATION PROCESS IN CALIFORNIA

1. Real Property

A. Counties assess property taxes on a fiscal year basis: July 1 – June 30. Each parcel is valued as of the January 1 immediately preceding the start of the affected fiscal year (“Lien Date”). The County Assessor (“Assessor”) first reviews the parcel’s “trended base year value” established under Proposition 13 (“Prop. 13”). That value, which is tracked annually by the Assessor, is the parcel’s fair market value set by the Assessor as of the date of the most recent sale or other change of ownership affecting, or new construction performed on, the parcel, and thereafter increased annually by a CPI index, which is capped at 2% per year. The Assessor then evaluates whether, as of the applicable Lien Date, the then-existing fair market value of the parcel, also determined by the Assessor, is less than its trended base year value. If so, the Assessor must assess the parcel at its existing fair market value for the affected fiscal year; if the Assessor believes that the parcel’s fair market value is more than its trended base year value, the parcel will be assessed at its trended base year value.

B. The Assessor issues written notification to the parcel owner of the Assessor’s determination of the parcel’s assessed value for the affected fiscal year. In a few Counties, a separate notice of assessed value is sent to the taxpayer in May or June; in most Counties, however, the first notification of assessed value is reflected on the tax bill, which typically is mailed in early September.

C. If the parcel owner or other affected party, e.g., the tenant in a single-tenant property (“Taxpayer”), believes that the assessed value established by the Assessor exceeds the parcel’s fair market value on the applicable Lien Date, he/she can file an Application for Changed Assessment (“Appeal”) with the County’s Assessment Appeals Board (“AAB”). Many Counties now require payment of a non-refundable fee (ranging from \$25 - \$65) at the time of filing. In Counties where a notice of assessed value is dispatched in May, the filing deadline is September 15; in Counties where the tax bill is the first notice of assessed value, the deadline is November 30. Under California law, the AAB is barred from accepting an Appeal filed after the deadline. CATA members represent Taxpayers in the preparation and pursuit of Appeals before the AAB.

D. Irrespective of whether the Taxpayer elects to file an appeal, property taxes, based upon the assessed value determined by the Assessor (not any lesser value that may be asserted by the Taxpayer), must be paid. The first installment is delinquent – and subject to a 10% penalty – after December 10; the second installment is delinquent (same penalty) after the following April 10. Under Prop. 13, the tax rate is set at 1% of the parcel’s assessed value; however, in many Counties, the rate has been increased to 1.05% - 1.60% through voter-approved initiatives. In addition, many parcels are subject to various special assessments which typically are not tied to, or affected by, the parcel’s assessed value.

E. Once an Appeal has been filed, the Taxpayer (or his/her authorized representative) can enter into negotiations with the Assessor to attempt to informally resolve their differences in opinion regarding the parcel’s value as of the applicable Lien Date. Often the negotiations will result in the Taxpayer’s withdrawal of its Appeal. On the other hand, if the parties reach agreement on a value that

is lower than the assessed value set by the Assessor, that value is submitted to the AAB for approval. If approved by the AAB, the revised value is enrolled by the Assessor; and the Taxpayer will receive a tax refund. If the AAB fails to approve the parties' agreed value, the Appeal will be set for hearing by the AAB. Similarly, if the Taxpayer and Assessor fail to reach an agreement on value, the Appeal will be set for AAB hearing. Under California law, the AAB has up to two (2) years from the date of filing to render a decision on the Appeal – whether that decision is merely an approval of the parties' agreed upon value or the AAB's determination of a parcel's value after a full-blown appeal hearing.

F. The AAB is a three (3) member panel appointed by the County Board of Supervisors. It typically consists of attorneys, accountants, appraisers, bankers, real estate brokers and others familiar with the valuation, transfer and financing of real and personal property. The AAB is charged by law with the responsibility to determine the parcel's fair market value as of the affected Lien Date, which in any event cannot exceed its trended base year value as of that date. Although the AAB is not bound by either party's opinion of value, certain legal presumptions apply: in Appeals involving an owner-occupied single-family home, the Assessor must prove that the Taxpayer's value opinion is erroneous; with Appeals for commercial or multi-family residential properties, the Taxpayer has the burden of demonstrating that the Assessor's assessed value is flawed. Not bound by technical rules of evidence, the AAB thoroughly examines witnesses and reviews documentation submitted by, and entertains arguments and written briefs from, the Taxpayer and the Assessor.

G. If the AAB upholds the assessed value set by the Assessor, the Taxpayer receives no refund of taxes paid on that assessment. Should the AAB find that the parcel's fair market value is lower than the assessed value, the Taxpayer will receive a tax refund, together with interest from the date taxes were paid. Refunds, however, can take as long as four (4) years from the date the applicable taxes actually were paid. In certain instances, if a parcel's assessed value is *lower* than its trended base year value for the affected Lien Date, the AAB, in resolving an Appeal, actually can increase the assessed value, in which case the Taxpayer is required to pay additional taxes.

H. After a contested Appeal hearing, both the Taxpayer and the Assessor can appeal the AAB's decision to the County Superior Court. In most instances, the Superior Court simply reviews the record of the AAB proceedings to determine whether there is any substantial evidence to support the AAB's decision. In limited instances, however, the Superior Court is empowered to conduct a de novo review of the dispute, making its own examination of the evidence and the parties' written court documents before rendering its own opinion as to the parcel's fair market value on the Lien Date.

2. Personal Property

A. Personal property (equipment, furniture, computers, machinery, etc.) owned or used by a business owner is assessable for property tax purposes. The procedure for determining the value of and assessing personal property is markedly different from that applicable to real property assessments, although some similarities exist. The Lien Date applicable to personal property also is the January 1 immediately prior to the commencement of the affected Fiscal Year, which, like real property, is July 1 – June 30.

B. Unlike real property, the annual assessment for most types of personal property is calculated by the Assessor from a business personal property statement ("Form 571L") that the Taxpayer is required to file annually with the Assessor. Under California law, the Form 571L should be filed by the April 1 immediately preceding the affected Fiscal Year and is deemed delinquent if not received by May 7. The Form 571L must include historical acquisition cost information relating to various items of personal property employed by the Taxpayer in its business operations. Upon receipt, the Assessor reviews the Form 571L and then determines the fair market value as of the Lien Date of the reported personal property, utilizing various standardized indexes and depreciation schedules applicable to the reported types of personal property. Since the procedure generally is employed throughout California, it is referred to as "mass appraisal." Once every four (4) Fiscal Years, the Assessor conducts an audit to determine the accuracy of each Form 571L filed by the Taxpayer in the intervening 4-year period. If the Assessor determines that any deficiencies exist, it will issue written findings and a tax bill for any resulting tax deficiencies.

C. After the Assessor has determined the personal property assessment for the affected Fiscal Year, the assessment notice and billing procedure and payment deadlines are similar to that applicable to real property, with one main difference. If the personal property assessment is not connected with a parcel of real property, the annual tax bill will be issued as early as July and is delinquent if not paid by the August 31 of the affected Fiscal Year.

D. If the Taxpayer desires to contest the assessed value for any personal property, the procedure described in paragraphs 1.C and 1.E – 1.H above also are applicable to personal property Appeals.