

PROPERTY TAX ALERT

Vol. 13, No. 7, July 2007

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BE A ROLE MODEL

Did you successfully negotiate a lower assessment? Have you come up with a way to streamline the property tax management function? Let other *PTA* readers learn from your success. Tell us your story and we may include it in a future issue. Just e-mail roxanna.guilfordblake@yahoo.com.

COMING SOON

- Wisconsin's Newark under scrutiny
- Exorcising ghost assets
- Legislative updates
- Coping with an audit
- More tips and tactics

■ TIPS AND TACTICS

What attracts an assessor's attention—and how you can protect your bottom line

From having a sales tax presence to having your company's name emblazoned on a barrel, you could be piquing an assessor's interest—and that could mean an unexpected assessment.

Sales and use tax flags

If a firm has sales and use tax situs and doesn't file a property tax return, this could raise a red flag—for the local assessor. **Joe Calvanico**, Midwest director of property tax services, **Grant Thornton**, Chicago, points out that local jurisdictions' increasing need for funds, coupled with enhanced technology, is leading to more cross-referencing of records. If you have a sales tax presence in a state, that's likely come to the assessor's attention.

Dennis Neilson, national director of valuation and litigation services for **Advantax**, agrees, noting that most major jurisdictions will cross-reference to find property. If you are paying sales tax, that suggests a presence. An assessor will want to know just how significant that presence is. There may not be any, but you may want to talk to your colleagues who handle sales and use tax and find out where they have nexus. If those jurisdictions tax personal property and you aren't filing, it may be worth exploring.

While sales tax suggests a presence, Neilson notes, if you show you don't have any assets in the jurisdiction, that *should* put the matter to rest. But just make sure your paperwork is in order so you can be prepared when the assessor starts asking questions. If you *do* have situs, however, you may face back taxes plus interest and penalties.

It generally makes sense to address such liabilities proactively. (Neilson mentions that, as a consultant, he would have no choice in the matter: He would have to take action or disengage from the client. He would try to negotiate some settlement saving them interest and/or penalties.)

But it's not just a sales tax presence that can arouse the assessor's curiosity.

Beer barrel polka

Just what creates a taxable presence varies not only by state, but by jurisdiction. And sometimes, getting hit with an assessment

depends on what the assessor sees. Neilson offers four examples:

1. **Beer barrels.** Breweries often ship beer around the country in metal kegs emblazoned with the brewery's name. The barrels enter and leave jurisdictions regularly, and what raises a red flag is pretty low tech: It has nothing to do with cross-referenced tax databases. Rather, it's what the assessor happens to see: "We're not getting a return from ABC brewery company, and I see their kegs all over the place. Let's see what's going on."

2. **Dumpsters.** Waste companies know *generally* where their dumpster is, but they may not know the exact address. (For example, the company knows it's in metro Atlanta. But in which jurisdiction? City of Atlanta? DeKalb County? Fulton County?) The company doesn't know exactly where the property is and doesn't file a return. The assessor happens to see the dumpster on assessment day and wants to know why. Or, a return is filed for the location of the office where the asset is carried on the company's books, but not where the asset is physically.

3. **Pallets.** He tells of a company that leased high-quality pallets to warehouses and stores. Like the barrels, they were branded with the company name and they moved

around the country. It was only a matter of time until assessors around the country started asking questions.

4. **Construction equipment.** Another very visible, movable asset is construction equipment. Where and how are these assets reported on the assessment day—in the jurisdiction where the contractor's office is or where the asset may have situs at a construction site?

"Companies which stamp their names on those kinds of things are just screaming for the assessor to take notice that they have situs in their location," says Neilson. (This doesn't imply that if they don't attach their name they can expect to get away with not reporting, he adds.)

If possible—and if the taxes are high enough to justify it—move the assets out of a jurisdiction on assessment day to a lower taxing jurisdiction or to one that may exempt the asset entirely, he counsels.

The problem with property taxes

Of course, planning opportunities abound depending when the company has control over just where the property is on the assessment date. If you can prove situs in a state that doesn't tax personal property, you can save money. But "prove" is the operative word. "There has to be

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some sense of reality to it,” says Neilson. “You can’t do it on a sham.” For instance, if the brewery is in Illinois—where they don’t tax personal property—the taxpayer can’t claim that the barrels are all located there.

Property tax situs is in many ways different from income or sales tax nexus.

So where one can clearly define “safe harbors” for other types of taxes, it’s not so easy with property taxes. Enterprise zones, states that don’t tax inventory, and, of course, states that don’t tax personal property all offer options, Neilson says.

Cell phones and coffee machines

One emerging issue may be the situs of cell phones. The phones have value, but often, the cellular companies give them away with a contract. But given that the phones work with only one provider, does the consumer really own them? Neilson isn’t so sure. He cites other questions: How much value is associated with the phone? Does the associated contract constitute an intangible that must be removed from consideration? Where is the situs of the telephone?

A clearer issue may be leased coffee machines (such as those found in offices). They are personal property, but who is paying taxes on them? Each item is insignificant in itself, but multiply it by the thousands that may be in a jurisdiction and, Neilson says, “it adds up to a bunch of money.”

The owners may not even know where the machines are: As a company leasing the equipment moves, so does their machine. Are both the lessee and lessor reporting the asset, paying twice for the same asset, or is neither reporting the asset? In all states, the lessor—the asset’s owner—will be held responsible for the tax. (California may be the exception, he notes.) But if the asset is confiscated, the owner (the lessor) is hit the hardest, he says.

As with the pallets, the barrels, and the dumpster, once the assessor sees the property, he or she may decide to start asking questions: How many companies have such assets? Are they being reported? Should they be? And where do they have situs?

Each state, perhaps even every jurisdiction, will have a different answer. Is an asset taxed *just* on where it is on tax day? Is it prorated? These questions provide tax-planning opportunities, but they also create potential exposure. If possible, locate the warehouse in a state that doesn’t tax inventory.

Overlooked opportunities

Many assets can fall through the cracks, creating potential exposure. But with a little planning, some of these items could be located in a jurisdiction with a more tax-favorable status. Few companies do that, Neilson says. While companies are diligent about income and sales and use tax, they miss a lot on the property tax side.

His advice is to conduct a property record study to clean up the asset list and identify where the asset is—a reverse audit. These assets often are not taken off the books as they are retired. What’s needed, he says, is a recordkeeping system that tracks the asset just for property tax reporting. Such recordkeeping would identify value and show where the property is on a specific day.

And what if all this seems overwhelming? “Get outside assistance with recordkeeping and the reporting process,” he counsels. “Or consider outsourcing the reporting obligation to companies with the expertise to report correctly.”

(Editor’s note: *Thanks to Maryann Gall, partner, Jones Day, Columbus, Ohio, for providing background to this article.*) ♦

Florida lawmakers pass cuts during recent special session

As expected, Florida has enacted a two-phase property tax relief and reform plan. Phase one makes immediate statutory changes to property tax laws. Phase two is a constitutional amendment that must be approved by voters at a special election to be held Jan. 29, 2008.

All counties and municipalities must cut taxes in the upcoming 2007–2008 fiscal year to the 2006–2007 revenue levels and make an additional cut of 3%, 5%, 7%, or 9% based on their past five years’ per capita tax increases compared to statewide averages. While most of the savings accrue to homeowners, business taxpayers can expect moderate savings as well, says **Sam Birchfield**, national practice leader, **Ryan & Company**. And those savings will be realized beginning *this* year. Unfortunately, he adds, the savings are not as substantial as the typical business owner would have hoped.

The plan also caps future property tax revenues to ensure that the government can’t grow faster than personal income.

The second part of the reform package is contingent on approval by 60% of voters. If enacted,

the constitutional amendment would replace Save Our Homes with a new “super exemption.”

If this passes—and he doesn’t have a sense of which way it will go—Birchfield expects a tax shift, with businesses facing an additional tax burden down the road. ♦

■ PENNSYLVANIA

Base-year approach may be unconstitutional

A case pending before the Pennsylvania Supreme Court could lead to drastic changes in the state’s property tax scheme.

A court of common pleas, addressing the constitutionality of Pennsylvania’s assessment laws, held that the provisions which allow counties to arrive at actual value of property using a base-year market value for an indefinite number of years violate the uniformity clause of the Pennsylvania Constitution.

The case, *Clifton v. Allegheny County*, No. GD05-028638, Court of Common Pleas of Allegheny County, could result in an overhaul of the state’s property tax system.

Pennsylvania law allows jurisdictions to use assessed values established by the use of a base-year market value for an indefinite number of years. Allegheny County uses 2002 as its base year. Accordingly, 2007 real property taxes are calculated using the 2002 fair market value. (Fluctuations between 2002 and 2007 *generally* are not considered.) Simply put, the taxes are based on the value of the real estate as of 2002, rather than on current fair market value, explains **Jeffrey S. Blum**, stakeholder, **Buchanan Ingersoll & Rooney**.

According to the court’s 120-page decision, the base-year system violates the uniformity clause because such approaches:

- do not assess all properties at the same ratio of assessed to actual value,
- cause disparities in the ratio of assessed value to fair market value, and
- discriminate against owners of property in lower-value neighborhoods.

The court noted that Pennsylvania is a bit of an anomaly: It and Delaware are the only states without requirements that assessments be based on current or relatively current actual values. The laws and regulations of 22 of the remaining

48 states provide for annual assessments. Nine of these 22 states have specific requirements for periodic field reviews. The other 26 states provide for reassessments at intervals of more than one year (generally, between two and five years).

Statewide analysis

The uniformity clause requirement of equality of property taxation is met only when, to the extent reasonably practicable, the ratio of assessed value to actual value is the same for every property, according to the court. Under the base-year system, fluctuations in value are not considered because state law does not require counties to conduct reassessments. (The court noted that 34 of the state’s 67 counties have not undergone a countywide reassessment from 1985–2005.)

The court compared this property tax situation to the income tax, stating that using this type of method to determine taxpayers’ income tax rates would have no chance of surviving a uniformity clause challenge, and property taxes should be judged by the same standards. For example, the method for calculating income, for income tax purposes, would result in 25% of the taxpayers paying a tax rate that is twice the rate of another 25% of taxpayers.

While holding the assessment laws unconstitutional, the court is permitting Allegheny County to continue using its 2002 base-year system while the appeal is pending.

Statewide impact?

While controlling only in Allegheny County, the decision has statewide implications, since most of Pennsylvania’s 67 counties use a base-year system, says Blum.

He expects the case to go before the Pennsylvania Supreme Court. If it upholds the ruling, the General Assembly may need to dramatically change Pennsylvania’s “antiquated” assessment system, he says.

But don’t start planning for an overhaul quite yet. “It’s really hard to predict.” While Blum has little doubt the high court will hear the case, the timing is another matter. Much depends on whether the court hears oral arguments. (He expects it will.) The process could take as little as a couple of months, or it could be two years or more.

Moreover, even if the Pennsylvania Supreme Court agrees with the lower court, it could opt for a narrow approach and, rather than call for

a complete overhaul, simply hold that the base-year system is unconstitutional as applied in Allegheny County.

Blum's not placing bets either way, but he points out that courts are often reluctant to overturn taxing schemes. It's easier to address situations on a case-by-case basis than to rule unconstitutional a system that may have been in place for decades. "It will be really interesting to see if the court is willing to order our General Assembly to restructure our taxing system." ♦

New Jersey appellate court rejects LLC's *pro se* appeal

Every few months, we come across a story about business owners unsuccessfully trying to represent themselves in property tax appeals.

One recent example comes from New Jersey: *Senna v. Judyski* (NJ Superior Court, Appellate Division, No. A-3501-05T2). In this case, the sole shareholder of two New Jersey LLCs tried to file an appeal *pro se* on behalf of the LLCs. He was unsuccessful. The problem, of course, is that state law prohibits any business entity other than a sole proprietorship from appearing in any court action in the state except through an attorney authorized to practice law in New Jersey.

The sole shareholder didn't avail himself of opportunities to obtain counsel and litigate the appeals. Instead, according to court records, he continued to assert his entitlement to prosecute the tax appeals on behalf of the LLCs.

His appeal was dismissed, as was his subsequent civil rights suit against county officials and the municipal attorney and assessor. (The civil rights suit, like the tax appeals claim, could only be presented by an attorney.)

Christopher Hayes, a consultant with **Marvin F. Poer & Co.**, points out that most business owners know that they need an attorney to file an abatement application in New Jersey. Years ago, non-attorney tax consultants were allowed to file abatement applications and represent property owners at the county board level, but no longer.

Typically in the Northeast, property owners or their non-lawyer representatives can file appeals and represent properties prior to the case going to court, he explains. However, several states in the region, including Pennsylvania and New York, do require attorneys for incorporated business. ♦

■ ALABAMA

Dishonest acts are not mistakes that merit refunds, state supreme court rules

The Alabama Supreme Court has denied a refund request, holding that dishonest acts constitute neither an error nor a mistake.

The case (*Ex parte HealthSouth Corp.*, No. 1060296), which has been winding its way through the system for a couple of years, involves the HealthSouth corruption scandal. Several officials of the corporation were involved in a scheme to artificially inflate the company's reported earnings.

The corporation amended its property tax returns to remove the fictitious assets and applied for a refund, claiming the overpayments were paid by mistake or error and asserting that the meaning of "mistake" or "error" included intentional misrepresentations.

For the tax years 2001–2003, HealthSouth submitted personal property tax returns to the Jefferson County tax assessor on which it listed numerous fictitious items of personal property. HealthSouth paid taxes for 2001 and 2002 based on the submitted returns.

Before paying the amount due for 2003, however, HealthSouth amended its return to remove the fictitious assets. The Jefferson County tax assessor allowed the adjustment. HealthSouth then amended its 2001 and 2002 returns and sought a refund of the taxes it "overpaid" as a result of listing the fictitious items.

The Jefferson County tax collector requested an opinion from the attorney general, who determined that no refund was due. The tax collector then denied the refund.

The case made it to the state supreme court, which granted certiorari on the question of first impression: whether an intentional misrepresentation by a taxpayer in reporting property on a tax return constitutes a mistake or an error.

The court determined that intentional misrepresentation is not included in the plain meaning of either "mistake" or "error" and legislative intent did not include allowing refunds paid on fictitious items intentionally listed on a tax return. "The settled meaning of the terms 'error' and 'mistake' is not consistent with dishonest acts," the court ruled. ♦

ALABAMA

The U.S. Supreme Court has denied a request to decide whether provisions of the Alabama Constitution that cap or limit property taxes violate the 14th Amendment of the U.S. Constitution. At issue would have been whether the provisions have a continuing racially discriminatory and segregative effect on the state's system of funding higher education. (*Knight v. Alabama, U.S. Supreme Court, Dkt. 06-1428, petition for certiorari denied.*)

ARKANSAS

In part due to 2007 legislation that permits Arkansas to ensure that basic per-student funding requirements are met if a school district's actual school tax collections are insufficient to do so, the state's school-funding system was in compliance with the constitutional requirement that school children are provided adequate education and substantially equal educational opportunity, according to the Arkansas Supreme Court. The court adopted a final report that noted the resolution of numerous issues raised by the court in a 2005 decision holding in part that the Arkansas public school-funding system was inadequate despite receiving foundation aid based partly on local revenues and local ad valorem tax. (*Lake View School District No. 25 of Phillips County v. Huckabee, 364 Ark. 398, 2005*)

CALIFORNIA

The State Board of Equalization has established unitary values of privately owned public utility companies for purposes of assessment at the local levels. The unitary values are set at \$71.4 billion, which should permit local governments to collect an estimated \$779.1 million in revenue over the next fiscal year, according to the agency. Values were set for 420 companies, which include telephone, gas and electric companies; railroads; and inter-county pipelines. A "unitary value" includes improvements, personal property and land. A unitary valuation applies to properties owned or used by utility companies and considered necessary to their operations. These properties are not subject to Proposition 13, and they are reappraised annually at their market value. The BOE determines the fair market value as of Jan. 1 by considering market conditions, use of the property, income generated by

State Updates

the property, replacement costs, investments in the property, regulatory climate, depreciation and other factors. (*News Release 30-Y*)

CONNECTICUT

Any property tax deficiency, plus any interest or penalties imposed, is an automatic lien on the property that arises on the Oct. 1 assessment date in the year before the tax became due and continues in force until two years after the date the tax became due. Previously, the lien continued for just one year past the due date. This lien continues to take precedence over all transfers and other encumbrances affecting the property and may be enforced by the sale of the property. (*HB6080*)

Effective Jan. 1, 2008, municipalities may provide a property tax exemption for hybrid and fuel-efficient motor vehicles that are also exempt from sales and use taxes. (*HB7432*)

Recycling machinery and equipment is fully exempt for the assessment year beginning Oct. 1, 2011, provided it was acquired on or before Sept. 30, 2006. Machinery and equipment used for manufacturing, biotechnology or recycling is fully exempt for assessment years starting on and after Oct. 1, 2012, provided it was acquired at least six years before the beginning of the assessment year.

KANSAS

Two grain elevators, built by the taxpayer to replace damaged ones, located on land leased from a railroad, were not taxable as real property. The county tried to assess the elevators using a provision allowing for assessment of escaped property. The escape assessment provision, however, did not apply because at the time of the last assessment, some improvements, namely the old elevators, were assigned a parcel number and listed on the tax rolls. Additionally, land leased from a railroad is appraised by the state, not the counties, and county appraisers were precluded from appraising state appraised property. (*In the matter of the protest of United AG Services, Inc. for taxes paid*

for 1998 and 1999 in Russell County, Kansas, Kansas Court of Appeals, No. 95,947, June 1, 2007)

MAINE

For Maine property tax purposes, the Business Equipment Tax Reimbursement (BETR) program is expanded to include used qualified business property, provided the equipment was placed in the state, or was being constructed in the state after April 1, 1995. Used equipment already exempt from property tax imposed by a city or town is not eligible for the BETR program. (*HP406*)

MINNESOTA

The Dept. of Revenue has issued Revenue Notice No. 07-11, which discusses the definition of "reasonable cause" for Minnesota property tax refund purposes. The notice provides examples of reasonable cause for failing to timely cash refund checks and factors used to prove reasonable cause.

MONTANA

Montana property tax law is amended to allow agricultural land that is now less than 20 acres to continue to qualify as agricultural land as long as the property used to qualify as agricultural land and the reduction in acreage was due to eminent domain for public use and the parcel has not been further divided. Taxpayers are not allowed a tax refund resulting from a reclassification of their land under these provisions. These provisions are applicable retroactively to tax years beginning after Dec. 31, 2006. (*SB316*)

NEVADA

A business that receives a property tax or sales and use tax partial abatement for creating or expanding a business must (1) allow the Dept. of Taxation to conduct audits of the business to determine whether it is in compliance with the requirements for the partial abatement; and (2) consent to the disclosure of the audit reports to the Commission on Economic Development and to the public with certain limited exceptions. The audit and disclosure requirements will only apply to a tax abatement that was executed after July 1. (*AB186*)

The exemption for real and personal property of certain apprenticeship

programs has been made permanent effective July 1, 2007. (*AB110*)

NEW HAMPSHIRE

The statutory provision pertaining to the adjustment of the penalty applied to proceeds from tax-deed property has been amended. An additional penalty equal to 15% of the assessed value of the property as of the date of the tax deed will now be adjusted by the equalization ratio for the year of the assessment (previously, adjusted by the most recently available equalization ratio). Additionally, technical changes are made to provisions pertaining to the tax collection procedure for land with a discretionary easement and land subject to community revitalization tax relief penalty assessment. (*HB198*)

Legislation has been enacted providing an exception to the five-year validity limitation on voluntary agreements for purposes of payments in lieu of New Hampshire property taxes by the renewable generation facilities. The owner of a renewable generation facility and the governing body of the municipality in which the facility is located may now agree to a term exceeding five years if such term is necessary for the financing of the project or is otherwise advantageous to both parties and both parties agree to such term. (*SB99*)

A new five-year municipal property tax assessment review schedule beginning April 1, 2007, is to be adopted by the Commissioner of Revenue Administration. By Aug. 24, 2007, the commissioner is required to notify each city, town or unincorporated place of the property tax year for which the assessment review will occur. (*HB316*)

The June 1 filing deadline for utilities has moved to May 1. Further, effective Aug. 24, 2007, the utility will be required to file a form, designated by the Commissioner of Revenue Administration, that details the utility's actual financial operating performance, including utility income and all expenses, original cost and depreciated value of all of the utility's assets (previously, a list of the changes made to the utility property). If the utility is unable to file the form by May 1, the utility will be able to request an extension which, if granted, will be valid only upon written confirmation of the Dept. of Revenue Administration and will not exceed 30 days per request. (*HB393*)

OKLAHOMA

For exemption purposes, the definition of "manufacturing facilities" is amended to include qualified establishments engaged in distribution as defined under Industry Numbers 49311, 49312, 49313 and 49319 and Industry Sector Number 42 of the latest revision of the NAICS Manual. (*SB798*)

Effective Jan. 1, 2008, improvements upon Oklahoma real property that are divided by a taxing jurisdiction line are valued and assessed, for property tax purposes, in the jurisdiction in which the physical majority of the improvements are located. (*SB72*)

Taxpayers claiming the in-transit property tax exemption pursuant to Sec. 6A of Art. X of the Oklahoma Constitution must file exemption applications by the later of March 15 during the year the tax is due or within 30 days from and after receipt of a valuation increase notice. (*SB685*)

The tax exemption for continuum of care retirement communities is amended to provide an exemption for facilities completed on or after Jan. 1, 2006. Qualified facilities completed on or after this date are exempt and may be located in any county of the state, regardless of population. Facilities constructed before this date must be located in a county with a population greater than 500,000 people in order to be exempt. (*HB1562*)

OREGON

The Dept. of Revenue may exchange property tax information with county tax assessors, county tax collectors or their authorized representatives. (*SB171*)

SB172 permits the Oregon Dept. of Revenue or a county tax assessor to forward property tax returns that are filed erroneously to the correct entity, and that changes the filing date for the electric cooperative tax from Feb. 1 to March 1.

If any portion of an Oregon property tax refund results from an assessment that is based on inaccurate reports, statements or written information provided by the taxpayer, the interest that is paid on the refund will be reduced to an amount equal to the portion of the refund that is not attributable to the inaccurate information contained in the taxpayer's report. (*HB2229*)

A county assessor may reduce the maximum assessed value of property when buildings are demolished. (*SB697*)

Boards of property tax appeals are permitted to waive delinquent real property tax penalties if it is both the first time that a tax return was required to be filed and the first year that the taxpayer filed the return. (*HB2232*)

SOUTH CAROLINA

Property used for agritourism (e.g., on-farm fee fishing, hayrides, mazes, crop art, etc.) may be classified as agricultural use property for property tax purposes provided the property used for agritourism is supplemental and incidental to the primary purposes of the entire tract's use for agriculture, grazing, horticulture, forestry, dairying or mariculture. (*HB3568*)

Personal property tax must be paid on watercraft and outboard motors before title may be transferred to a new owner. (*HB3233*)

TENNESSEE

An assessment appeal will be dismissed without any further right to administrative appeal if a taxpayer fails to pay the undisputed portion of the tax or any other property tax delinquency that has accrued on the property by the time of the hearing. (*SB2066*)

TEXAS

Information relating to real property sales prices, descriptions, characteristics and other related information received from a private entity by the comptroller or the chief appraiser is exempt from disclosure requirements under the public information law. Additionally, the property owners may now receive any item of information that the chief appraiser planned to introduce at the hearing on the protest from the appraisal district. (*HB2188*)

HB2994 enables local communities to offer incentives, including property tax abatements and value limitations, to owners of nuclear electric power-generating facilities or integrated gasification combined cycle facilities to locate or expand in the state.

SPOTLIGHT ON WISCONSIN

TAXABLE PROPERTY

All real and personal property in Wisconsin is subject to property tax.

EXEMPTIONS

Exemptions include aircraft; farm animals and livestock; furniture and fixtures; imports and exports; inventories; leased property; light and heat companies; manufacturing and industrial equipment; motor vehicles; pollution control facilities; power companies; software; tools; and transportation equipment.

Receiving special treatment are the following: agricultural land, forest land grain elevators, insurance companies, iron ore concentrate docks, manufacturing and industrial property, mining property, swamp and waste land, and utilities.

VALUATION AND ASSESSMENT

Personal and real property is assessed by local assessors as of Jan. 1.

Each tax district must assess property at full value at least once every five years. The Dept. of Revenue determines the ratio of assessed value to full value for all taxable general property and of each major class of property of each taxation district, and takes action if the assessed value and full value differ by more than 10%.

The DOR assesses the properties of manufacturing and industrial companies, mines, railroads and sleeping car companies, air carriers, conservation and regulation companies, pipeline companies, telephone companies, and the operating property of public utilities.

Personal property returns are due March 1 of each year, as are manufacturers' real and personal property returns.

PAYMENT DUE DATES

Depending on the jurisdiction, property taxes are either due in full by Jan. 31; or in two (in some cases, three) equal installments, with the first due Jan. 31 and the second on July 31.

REFUNDS

A taxpayer may pay the property tax due and then file for recovery of an unlawful tax, or a refund of an excessive assessment. Generally, the taxpayer must file the claim with the district clerk or county assessor by Jan. 31.

ASSESSMENT CORRECTIONS

If an assessor discovers a "palpable error" in an assessment, it must be corrected by adjusting the assessment for the preceding year. "Palpable error" means an assessment of property that was exempt by law from taxation at the time fixed by law for making the assessment.

After the tax roll has been delivered to the treasurer of the taxation district, the governing body of the taxation district can refund

or rescind in whole or in part any general property tax shown in the tax roll, if:

- there's a clerical, arithmetic or transpositional error;
- the assessment included real property improvements which did not exist on the assessment date;
- the property is exempt;
- the property is not located in the tax district; or
- a double assessment has been made.

If property is omitted from assessment during the previous two years, it can be added for the year of omission and taxes apportioned and collected on the tax roll for the added entry.

APPEALS

After discussing the assessment with an assessor, a taxpayer may appeal the assessment to a board of assessors (if the jurisdiction has one) and then to a board of review. In a community without a board of assessors, assessment protests begin with an appeal to a board of review. Taxpayers may appeal board of review decisions to the DOR, under limited circumstances, or to a Wisconsin Circuit Court.

A taxpayer intending to file an objection to a property tax assessment must, at least 48 hours before a board of review's first scheduled meeting, provide to the clerk of the board a written or oral notice of intent to file an objection. (The board meets annually at any time during the 30-day period beginning on the second Monday of May.)

The taxpayer may appeal to the DOR within 20 days after receiving the board of review's determination, or within 30 days of the date specified on the affidavit if no notice is received.

An appeal to the circuit court must be made within 90 days after adjournment of the board of review. The court will then make a decision based solely on the testimony that was presented to the board.

Manufacturing property: The formal appeals process begins with an appeal to the State Board of Assessors, which a taxpayer must file within 60 days after the assessment notice is issued. The board's decision may be appealed to the Tax Appeals Commission within 60 days of the determination date. The commission's decision may be appealed to the Wisconsin Circuit Court for Dane County.

Utility property: Within four years of filing required reports, a utility may ask the DOR to adjust the data used to determine the amount and value of its property located in the state. A utility may appeal the decision on the adjustment to the Circuit Court for Dane County within 30 days after the mailing of the notice of adjustment. A utility may, by Oct. 1 each year, present evidence to the DOR relating to the state assessment made in the preceding year. The utility must file a request for such a hearing and the DOR must hold the hearing within 60 days after the utility files the request. A utility may appeal the DOR's decision to the Circuit Court for Dane County within 30 days after the entry of the DOR's order.