

# PROPERTY TAX ALERT

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### STATE TAX HANDBOOK

CCH's *State Tax Handbook* is the perfect quick-answer tool for professionals who work with multiple state tax jurisdictions. This reference offers 120 charts on property taxes, income taxes, sales and use taxes and tax practice and procedure. New property tax charts address topics such as freeport exemptions, tangible personal property, administrative appeals, construction work in progress and taxation of inventories. The single-copy price is \$62.50. Call (800) 248-3248.

### COMING SOON

- Appealing personal property audits
- Valuing warehouse property
- Legislative wrap-up

### ■ VALUING INCOME PROPERTY

## Strategies for getting a fair-market fee-simple valuation

**A**re above-market rental rates driving up your property taxes? This can be a problem for any income-producing property, but retail properties seem to face the greatest challenges.

A fee-simple valuation is based on market value (which can include market rents and occupancy rates). A lease-fee valuation is based on current performance (such as NOI) and thus includes actual contracted rents, not market rents. So if you are collecting higher-than-market rents, a lease-fee valuation could cost you.

In theory, most assessors should accept a stabilized fee-simple value, explains **Deborah Davis**, president of Chicago-based **Strategic Tax Services**. She points out, however, that some assessors view leases as an indication of market rates.

Fortunately, most assessors are open to well-supported and well-reasoned arguments explaining why your lease rates aren't reflective of market value, says **Alexander Hazen**, president, **International Appraisal Co.**, Upper Saddle River, N.J.

### Doing your homework

Making your case can be as simple as citing comparable properties to demonstrate how market rents are lower than your rents, Hazen says. For instance, your rates could be higher because of your "entrepreneurial expertise," he suggests. Or they could be tied to tenant creditworthiness, says Davis. Or it could be that you got tied into an unfavorable long-term lease. (Generally, the longer the lease, the greater the likelihood of disparity between the market rates and actual rental rates, Hazen explains. As lease terms become shorter, or as leases include provisions for making rent adjustments based on current market conditions, the issue may become less important, he notes.)

If, however, you are stuck with a below-market lease, show there's a reason for it—for instance, the property is located on a bad corner. Your goal is to demonstrate your lease *is* the market.

Hazen and Davis advise looking carefully at comparable sales to find out if they are *truly* comparable. Davis tells of clients who recently sold two retail strip properties. The centers had significant vacancies, and the sale price was based on *anticipated*, not actual, rents. From Davis' perspective, the sales didn't represent market value. "It is highly unlikely that particular property will ever obtain those rents."

You'll definitely want to watch out for sale/lease-back transactions, Hazen says. The financial arrangements don't necessarily represent market value. Such sales aren't truly comparable unless you adjust for business value, he warns. You need to make sure that what's being sold isn't just lease-fee interest.

### Rental roll access

If your lease rates are higher than market, you may not want to show your rental rolls, Davis suggests. "One of my clients with only a few retail properties actually has a policy of not providing rent rolls (with lease rates) to assessors in fear of other tenants discovering the various lease rates in a center. To get around that, I'll pull market studies showing typical lease rates for a class of property in a particular market."

While there's no need to *volunteer* rental rolls, once the assessor asks, you need to hand them over, says Hazen. "From an ethical consideration, you don't want to withhold information." Often, it's not a choice. In Minnesota, when you file an appeal on income property, you must provide three years of operating statements, says Davis. If you don't, the appeal is dropped.

If you do show your rental rolls, ask for confidentiality, she warns. If they become part of the public record, a tenant can learn what other tenants are paying.

### Tenant improvements

Tenant improvements can affect rental rates without affecting market value. Some tenant-specific improvements can't be recovered in the marketplace and therefore should not be taken into account when calculating a market value, says Hazen.

When trying to determine the market rent, look at the amount of tenant improvement dollars that are amortized into the lease, Davis says. Once you get those numbers, you can make a better case to the assessor.

"I've had success at arguing down actual lease rates by doing this exercise and pulling out excess leasehold improvements," she says. Often, those leasehold improvements are not taxable, so you want to remove them from both the construction cost and the income analysis on the rental rate.

As you review tenant improvements, be sure to watch out for double taxation, Davis warns. Some states tax improvements as personal property; you need to make sure those same improvements aren't being included in the real-property valuation.

### Variations by states

It may sound like a routine no-brainer to say "check all applicable statutory and case law," but in this case, that's critical, Davis and Hazen agree. Most jurisdictions stick to market value, but not all.

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#### LEASE-FEE VS. FEE-SIMPLE TIPS

- Make sure that sales of comparable properties are truly comparable. Watch out for sale/lease-back transactions or tenant improvements that could artificially inflate value.
- If your lease rates are higher than the market, explain why. (Entrepreneurial skill? An unfavorable lease signed when the market was stronger?)
- If your rents are below market, show why.
- Don't volunteer rental rolls, but turn them over when asked—and request confidentiality.
- Review appraisal manuals, case law and statutory law to see how your jurisdiction addresses lease-fee vs. fee-simple issues and other valuation issues.

Although a few jurisdictions embrace lease-fee value and will try to look at the actual income of the property to determine market value, there's a fundamental issue at stake, according to Davis and Hazen: Uniformity. "The use of the lease-fee value imposes an unequal tax on taxpayers who own the same or similarly situated property but manage it differently," explains Davis.

Wisconsin case law, for instance, includes "business value" as part of market value, and has held that property should be based on the contract rents (versus market rents), she notes. Hazen points to *Appeal of Marple Springfield Center* (1992), in which the Pennsylvania Supreme Court held that a legally binding rent restriction that was the result of an arm's-length transaction had to be considered in determining market value of a property. ♦

## Kentucky scuttles plans to withdraw policies and circulars—for now

A Kentucky Dept. of Revenue plan to withdraw policies and circulars is on hold, thanks to an outcry from taxpayers. The controversy not only highlights their issues but those of every taxpayer or tax professional relying on a policy statement, circular or similar guidance from a jurisdiction. (In contrast, Michigan specifically allows taxpayers to rely on published guidance, and Wisconsin is considering the issue. See the article on page 4.)

### The background

The DOR's proposal was to withdraw 246 policies and circulars issued over the last several decades.

Those materials provide detailed information about the application of Kentucky taxes to specific situations and specific taxpayer types, explains **Erica Horn**, a partner with **Stites & Harbison** in Frankfort, Ky. She says that, while some of the policies and circulars were outdated as a result of statutory changes and judicial decisions, most were not.

**Michael Harbold**, of **Ernst & Young's** state and local tax services in Louisville, notes the Kentucky DOR had taken the position—informally—that the policies and circulars were no longer valid anyway and this was a formal step to make that known.

According to the DOR, he's right. **Eddie Mattingly**, with the department's division of legislative services, points out that KRS Chap. 13A, enacted in 1985, requires administrative guidance to be written into regulations. So, from the DOR's position, the circulars and policies have been "null and void" for quite a while, he explains.

But taxpayers didn't always agree. "We have abandoned a lot of circulars. The public has not," Mattingly says. A case would go to court and the taxpayer would win, relying on guidance the DOR considered obsolete.

So the department decided to clear the decks.

In light of taxpayer concerns, the DOR announced it was withdrawing its proposal. This doesn't mean the policies and circulars won't eventually be pulled; it simply means the DOR won't withdraw them until additional guidance (in the form of regulations) is released to replace them, Harbold explains.

### Surprise, surprise, surprise

As Mattingly notes, taxpayers didn't consider all the policies and circulars obsolete. When the DOR proposed removing them all at once, many taxpayers, CPAs and other tax professionals were caught off guard.

"The withdrawal was made worse by the fact that no new guidance was issued on the issues that the policies and circulars covered," Horn explains; the most immediate impact was on taxpayers subject to Sarbanes-Oxley Act reporting.

The greatest impact was on sales tax policy, says Harbold, noting few of the affected circulars and policies directly related to property tax issues.

But Horn points out that even limited guidance in the form of circulars and policies would be important to property tax professionals, given

the scarcity of official DOR regulations. There are only two Kentucky regulations related to property tax assessments, and these are very narrow in scope, she explains.

### Protecting yourself

This episode draws attention to a significant concern for taxpayers: What sort of guidance will hold up in court? The bottom line is this: Taxpayers should be careful in relying on the policies, circulars or similar documents, especially because some have already been superseded by statute or case law. Paying attention to various revenue department Web sites is a good way to keep up-to-date. Moreover, Horn notes, it keeps you from being blindsided by a change such as the one the Kentucky DOR proposed.

“When regulations are proposed that impact their business, [taxpayers] should make their concerns known through the hearing/written comment process,” she says.

If there is a position that seems unclear without the policies and circulars, “solicit a letter ruling from Kentucky regarding the issue,” Harbold advises.

In at least a few states, there are other options in the property tax arena, notes **Fred Vance**, principal, **Fred Vance & Associates**, La Crescenta, Calif.

About a third of the states (primarily in the West), offer more reliable help, he says: They have published appraisal and/or valuation handbooks with detailed direction. Used wisely, the handbooks allow a taxpayer or tax professional to cite the state’s own reference material and show how a jurisdiction is not following the recommended solutions to the valuation issue.

Vance has found that the assessor’s staff often isn’t aware of the handbooks, and providing the reference can help make a case. The handbooks contain guidelines and don’t have the power of law; however, they usually reference statutes and case law, which will give you a head start on researching the law.

In California, LTAs (instructional letters to assessors on various topics) and annotated letters (essentially letter rulings to the taxpayer with identifying data) are generally reliable, Vance says. He’s found them helpful in developing his valuation position, and they generally carry weight. “Some counties say they are just guidelines, but they usually hold up on appeal.” ♦

## Michigan taxpayers can rely on bulletins; Wisconsin considers the issue

While Kentucky considers revoking some policies and circulars (see previous article), Michigan and Wisconsin are moving in the opposite direction.

AB968, an “anti-aggressive” Wisconsin tax-collection bill, has passed the Assembly and is awaiting Senate action. The proposed legislation applies to any audit, assessment or claim of refund; if enacted, the Dept. of Revenue could not take a position contrary to any DOR rule in effect during the period at issue. Additionally, the agency could not take a position contrary to any guidance published prior to the period at issue, if the guidance was not subsequently retracted or amended.

Michigan lawmakers recently passed HB5362, which holds that a taxpayer may rely on a bulletin or letter ruling issued by the Dept. of Treasury after Sept. 30, 2006. Moreover, a taxpayer won’t be penalized for that reliance until the bulletin or letter ruling is revoked in writing.

It’s a big change for Michigan, says **Patrick Van Tiflin**, a partner with **Honigman Miller Schwartz and Cohn**, Lansing, Michigan, he says, “has a sordid history of changing the rules after the game is played.”

Van Tiflin discussed several cases in which taxpayers had Treasury guidance, only to lose in court because the DOT retroactively changed it. Most recently, in *J.W. Hobbs Corp. v. DOT* (254069), the Court of Appeals upheld the retroactive application of the single business tax and stated the department was not bound by its past releases.

This was just the latest incident in a long history, Van Tiflin says. “The taxpaying community has been up in arms.”

HB5362 is a positive change, but he counsels caution. Yes, you can rely on a bulletin but, Van Tiflin adds, the question remains as to what “will not be penalized” means. That question, he warns, may take a test case to determine specifics. For instance, if a taxpayer relies on the guidance, can the DOT still try to go after taxes, and just not assess interest or penalties?

As did the experts in Kentucky, Van Tiflin notes the only way to adequately cover yourself is to get a specific letter ruling. However, that is both impractical and virtually impossible in Michigan. In general, the problem with requesting a letter ruling is that it lays out the details of a situation,

### STRATEGIES FOR DEALING WITH SHIFTING POLICIES

- **Stay current.** Monitor revenue department websites for policies that are withdrawn or superseded.
- **Make your voice heard.** If a proposed regulatory change will negatively affect your business, follow the process for making comments.
- **Solicit a letter ruling,** if it won't expose you to potential liability.
- **Read the state's appraisal/valuation handbook.** In California, review applicable LTAs and annotated letters.

exposing a company to a potential tax liability. And, Treasury often is reluctant to issue a letter ruling that may be published, he says. ♦

#### ■ PROPERTY TAXES IN THE LEGISLATURES

## Maine enacts PPT exemption for new investment, partially replacing BETR

Maine lawmakers have passed LD2056, which exempts certain personal property placed in service on or after April 1, 2007; the governor is expected to sign the bill.

Designed to attract new business, the legislation largely eliminates the Business Equipment Tax Reimbursement (BETR). Since 1995, Maine has reimbursed businesses for the personal property tax (PPT) through the BETR program.

LD2056 eliminates the PPT on new business equipment purchases; reimbursement for taxes on equipment already in the BETR program will continue for the remainder of its eligibility, up to 12 years, explains **Chris Hall**, vice president and general counsel with the **Maine State Chamber of Commerce**. Retail is excluded; PPT on it will continue to be eligible for the BETR reimbursement.

The legislation includes an additional extension for property still in service after 12 years, allowing those taxpayers to get a partial reimbursement against PPT.

The BETR program is complicated and sometimes uncertain. The new measure simplifies the process and gives businesses more assurance they will indeed get promised tax cuts, since the permanent exemption can't be reduced as readily as the BETR reimbursement could.

Many businesses wanted to abolish BETR, but Hall is satisfied with the compromise. "We got enough of what we wanted to be happy with it," he says. "All and all, everyone is very pleased."

### In other legislative news:

- **Kansas** Gov. Kathleen Sebelius' proposed exemption for commercial and industrial machinery and equipment has passed the House and the Senate.
- **Connecticut** has enacted SB702, which phases out the local property tax on manufacturing and machinery equipment over five years. Look for details in next month's *PTA*.
- During April's special session, lawmakers addressed **Arkansas'** "unconstitutionally inadequate" school-funding system without increasing property taxes. Funding will come from existing revenue sources, explains **Kenneth R. Hall**, executive vice president of the **Arkansas State Chamber of Commerce**.
- Elimination of the county school equalization rate is poised for passage in **Arizona**. The legislation is part of two virtually identical bills (HB2685/SB1289) and both have made it out of committee. Both bills "are very much viable," says **Patrick Derdenger**, a partner with **Step toe & Johnson** in Phoenix. "The question is will the governor veto them." Also in Arizona, Gov. Janet Napolitano vetoed legislation (SB1206) to cap property tax rates imposed by local school districts. ♦

### U.S. SUPREME COURT SAYS ARKANSAS TAXPAYER DENIED DUE PROCESS IN TAX SALE

It's not often the U.S. Supreme Court addresses property tax issues, so it's worth noting that it recently came down on the side of the taxpayer in just such a case, *Jones v. Flowers* (Dkt. 04-1477). The impact on businesses will, however, be negligible.

The high court held that when a mailed notice of a tax sale is returned unclaimed, a state must take additional reasonable steps to try to provide notice to the property owner before selling the property, if it is practicable to do so.

## ALABAMA

Property tax abatements for private-use industrial property are not valid for 13 days following the mailing of appropriate notification to the county commission in which the property is located. (*HB379*)

## CALIFORNIA

Officials from the California Franchise Tax Board, the State Board of Equalization and the Employment Development Dept. have launched the California Tax Service Center at [www.taxes.ca.gov](http://www.taxes.ca.gov).

The last day of the property tax assessment appeals filing period for counties has been certified. The regular appeals filing period begins July 2, 2006, in each county and ends either on Sept. 15 or Nov. 30, depending on whether the county assessor mails assessment notices by Aug. 1, 2006, to all taxpayers with property on the secured roll. Taxpayers may contact Sherrie Kinkle at (916) 322-2921. (*Letter to County Assessors, No. 2006/020, California SBOE*)

## COLORADO

If a lessee makes an overpayment of personal property taxes to a lessor for taxes due on or after Jan. 1, 2007, the lessor must refund the excess to the lessee by Aug. 31 of the year the tax is due. A lessor who willfully fails to make the refund is liable to the lessee, in a civil action, for three times the amount of actual damages and the costs of the action, as well as attorney fees. There is a three-year statute of limitations; however, a one-year extension may be granted if the lessee proves that the delay was caused by the lessor engaging in conduct designed to induce the lessee to refrain from or postpone commencement of the action. (*SB70*)

## FLORIDA

Property on which a correctional facility was located, which was leased by a nonprofit corporation to a state public entity, was exempt from property tax because the public entity was the equitable owner of the property. (*Barnett v. Dept. of Management Services, Florida Court of Appeal, First District, No. 1D05-1731*)

An apartment complex owned by a nonprofit corporation that was an instrumentality of a municipality was not being used for a "municipal or public purpose" and, therefore, was not exempt from property tax under the constitutional exemption for city-owned property, according to an

## State Updates

appellate court. While the complex provided housing for students, that service was not essential to health, morals, safety and general welfare of the public within the municipality, the court ruled. (*CAPFA Capital Corp. 2000A v. Donegan, Florida Court of Appeal, Fifth District, 5D04-2726*)

## IDAHO

HB676 provides that the act of platting will not cause land to lose its tax-exempt status as land actively devoted to agriculture, provided the land otherwise qualifies for the exemption.

Under the Idaho community reinvestment pilot initiative, some property owners who receive a community-investment rebate for conducting voluntary cleanup projects will not be eligible for a property tax exemption for remediated land. To be eligible for the rebate, a property owner must be the current owner of a contaminated property, but must not have caused, contributed to, or consented to the contamination of the property, or owned the property at the time of the contamination. Eligible property owners may not be affiliated in any way with any individual or entity connected to the contamination. Eligible property owners conducting voluntary cleanup actions are eligible for financial assistance of up to \$150,000 per project. (*HB728*)

HB764 exempts qualifying county hospitals and hospital districts from property taxes on real property they own and personal property, including medical equipment, they own or lease. Previously, the exemption applied only to qualifying hospital corporations.

## INDIANA

SB260 enacts various property tax changes. Among them:

- Effective March 24, 2006, property tax rates may be calculated using a reduced assessed value for property to reflect the effects of pending property tax appeals.
- Effective retroactive to Jan. 1, 2006, land in a developer's inventory may not be reassessed until the next assessment date after the earlier of (1) the date land is transferred to a non-developer; (2) the date con-

struction begins; or (3) the date the building permit is issued. Currently, such land may not be assessed until the next change of title.

- A new personal property section is added, effective retroactively to Jan. 1, 2006, that requires assessing officials to adjust personal property assessments when an error is found and process a refund or credit for any resulting overpayment.
- The assessed value of new manufacturing equipment, new research and development equipment, new logistical distribution equipment or new information technology that is part of an owner's assessable depreciable personal property is subject to the 30% minimum valuation floor and the amount of assessed value used to compute the deduction is specified, effective retroactively to Jan. 1, 2006.

## MARYLAND

Effective July 1, 2006, the state property tax rate on real property will be 11.2 cents (currently, 13.2 cents) per \$100 of assessed valuation. Utility operating real property will be taxed at a rate of 28 cents (currently, 33 cents) per \$100 of assessed valuation. (*CCH Telephone Conversation, Office of the Maryland Comptroller of the Treasury*)

## MICHIGAN

A limited liability company was liable for property taxes for its easement to use 56 parking spaces in a medical insurance company's parking structure. Under the easement agreement, the medical insurance company agreed to grant the LLC a perpetual and exclusive easement of the covered parking spaces "at no cost" to the LLC. An easement is a limited property interest that constitutes a right to use land burdened by the easement, rather than a right to occupy and possess the land. When the language of an easement is unambiguous, it is enforced as written. In this case, the "at no cost" phrase did not obligate the medical insurance company to pay for the LLC's property taxes. It meant only that the medical insurance company would not charge a fee in exchange for the grant of the easement to use the parking spaces. Tax liability was not a contractual issue under the easement agreement. Rather, it was an issue to be resolved between the LLC and the third party that imposed the tax. Consequently, the property taxes constituted the LLC's personal debt. (*Cornice & Slate, LLC v. Blue Cross and*

*Blue Shield of Michigan, Michigan Court of Appeals, No. 258621)*

## MINNESOTA

The Minnesota Supreme Court held that a county assessor who assessed contiguous property owned by a common taxpayer as 11 separate parcels, instead of one combined parcel, did not violate the statutory uniform assessment requirements. The assessor relied on the auditor's division of the taxpayer's property into 11 separate parcels when calculating the taxpayer's assessment. The taxpayer argued that dividing the property into separate parcels resulted in a higher assessment, violating the statutory requirement that all comparable land be assessed uniformly. In rejecting the taxpayer's argument, the court determined that the assessor's statutory duty was to determine the market value of each tract of property as it was listed for taxation by the auditor. Further, the court noted that if the taxpayer wanted his parcels to be consolidated for tax purposes, the taxpayer could petition the auditor to combine the divided parcels into a single parcel. (*Theobald v. County of Lake, No. A05-1657*)

## MISSISSIPPI

HB1510 extends the exemptions granted under the Growth and Prosperity Act to businesses located in Growth and Prosperity counties until Dec. 31, 2020 (formerly, Dec. 31, 2015).

## NEBRASKA

Gov. Dave Heineman has signed LB968, a tax relief package. The property tax component calls for land zoned for agricultural uses to be assessed at 75% of the property's actual value.

## NEW HAMPSHIRE

HB410, as enacted, requires all documents and copies of documents submitted with or requested to verify an application for a New Hampshire property tax credit, exemption or deferral to be kept confidential and returned to the applicant after a decision has been made.

## NEW YORK

For the 2006 assessment roll, New York real property tax law limits special assessing units that are not cities from adjusting their current base proportions of any class to exceed the adjusted base proportion by more than 1%. In subsequent assessment roll periods, the current base propor-

tions for any class may not exceed the adjusted base proportion by more than 5%. (*AB9853*)

AB9854 allows two or more property tax taxpayers to combine their efforts into a joint petition seeking a review of an assessment imposed by a special assessing unit that is not a city. To qualify, the taxpayers must be on the same tax roll and must seek review under the same grounds.

## OKLAHOMA

Property taxes assessed against condemned land and a resulting tax certificate issued to the taxpayer that purchased it at a tax sale were void because the land was exempt from taxation. The land became exempt after it was condemned and acquired by a tax-exempt city and before it was sold for unpaid taxes. As a result, after the land was condemned, all proceedings to assess and collect property tax were void. (*City of Lawton v. Dunn, Oklahoma Court of Civil Appeals, No. 101170, March 29, 2006, P200-985*)

## PENNSYLVANIA

To ensure that Pennsylvania license applicants and licensees are in good standing, Gov. Edward G. Rendell has ordered the state Dept. of Revenue to develop a program to identify any license or license renewal applicants who have not timely reported or paid any Pennsylvania tax. Under the Business License Information Exchange Program, state agencies would provide the DOR with statements from licensees and applicants that for all Pennsylvania taxes they have filed reports and made payments or, alternatively, are subject to a deferred payment plan. The DOR would then, subject to confidentiality restrictions, notify the agencies of those licensees and applicants who have unresolved state tax obligations. The agencies, along with their officers and employees, also would be required to treat the information as confidential and privileged to the extent provided by law. (*Executive Order 2006-03*)

## VIRGINIA

SB417 requires localities to provide a real and personal property tax exemption for certified pollution-control equipment and facilities placed in service on or after July 1, 2006. The measure affects equipment used for collecting, processing and distributing

or generating electricity from landfill gas or synthetic or natural gas recovered from waste; this includes equipment used to grind, chip or mulch trees, tree stumps, underbrush and other vegetative cover for reuse as landfill gas or synthetic or natural gas recovered from waste.

SB357 provides for a referendum at the November 2006 election on approval of a proposed amendment to §6, Art. X of the Virginia Constitution relating to property tax exemptions. If the amendment is adopted, the General Assembly will be authorized to enact legislation to permit localities to provide a partial exemption from real property taxes for real estate and associated new structures and improvements in conservation, redevelopment or rehabilitation areas.

Effective July 1, 2006, the local tax penalty for failure to pay a tax may not exceed the amount of the tax assessed. (*HB1283*)

For assessments made on or after July 1, 2006, circuit courts will be precluded from granting relief to taxpayers seeking correction of erroneous tax assessments in cases in which the erroneous assessment was attributable to the taxpayer's willful failure or refusal to provide the Dept. of Taxation with the necessary information as required by law. Under current law, if the court is satisfied the assessment is incorrect, it may order the assessment be corrected. (*HB772*)

## WEST VIRGINIA

Effective July 1, 2006, combined oil and gas property tax returns are no longer required. (*HB4598*)

Effective Jan. 1, 2007, personal property used on a farm or in a farming operation that annually produces agricultural products for sale is exempt from property tax. The exemption includes vehicles that qualify for a farm use exemption certificate and livestock employed exclusively in agriculture. (*SB370*)

## WISCONSIN

AB129 creates a grace period of five working days for taxpayers to pay real and personal property taxes. If taxes are not paid before the grace period expires, they are considered delinquent on the first day after the original due date.

## SPOTLIGHT ON LOUISIANA

### TAXABLE PROPERTY

All real property in Louisiana is subject to tax unless expressly exempted.

### EXEMPTIONS AND EXCEPTIONS

Exempt properties include agricultural machinery and implements; antique, private and dusting aircraft; barges used in international commerce; cemeteries; coal or lignite; crops; distribution centers; exports and imports; farm animals and livestock; farm products; fuel to generate electricity; gas leases; historic property; horticultural property; horses; household goods; nonprofit hospitals; intangible property; in-transit property; inventories; new manufacturing establishments; motor vehicles; private schools, sewage and wastewater-treatment facilities; solar energy systems; timber; universities; and watercraft.

Specially treated property includes agricultural, horticultural, marsh and timberland; enterprise zones; financial institutions; historic property; insurance companies; public-service companies; railroads and rolling stock; and vessels.

### VALUATION PROCEDURE

Property taxes are levied by parishes, municipalities and special districts. The basis of tax is either "fair market value" or, in the case of agricultural, horticultural, marsh, timberland and historical property, "use value."

### ASSESSMENT PROCEDURE

Assessment of taxable property is made on the basis of conditions existing on Jan. 1. However, immovable property, the ownership of which is transferred after Jan. 1 but before the assessor files the tax roll with the tax collector, may be taxed to the new owner. In Orleans Parish, the status of property on Aug. 1 determines its tax treatment for the following calendar year.

The Louisiana Constitution mandates the reappraisal of all taxable property at intervals of not more than four years.

Certain property (public-service companies, railroads and rolling stock, and transportation equipment) that is located in several jurisdictions is centrally assessed by the Louisiana Tax Commission, rather than by individual parishes and municipalities.

### PAYMENT DUE DATES

Property taxes on immovable and movable property are due when the tax roll is filed in the office of the recorder of mortgages and must be paid by Dec. 31. In Orleans Parish, all taxes must be paid before Feb. 1.

A taxpayer may be granted a reasonable extension of time for the payment of tax upon a written request and for a good cause. The extension may not, however, exceed 60 calendar days. Interest accrues during the period of extension.

A taxpayer suffering from public calamity, such as flooding or crop destruction, or whose lands or other property, including buildings, structures or personal property, are damaged or destroyed during a disaster or emergency declared by the governor, may have payment of taxes postponed on both real and personal property. The postponed taxes are spread over the following 10 years and levied against the taxpayer's real property.

### REFUNDS

To preserve the right to a refund of property taxes improperly collected, a taxpayer must pay the taxes under protest.

A taxpayer who claims an erroneous tax payment of parish or municipal taxes may file a refund claim with the Louisiana Tax Commission within three years of the date of payment.

### ASSESSMENT CORRECTIONS

Simplified procedures are in place to correct errors administratively without the necessity of going through a formal appeal process.

### OMITTED PROPERTY

When it is discovered that property has been omitted from assessment or improperly assessed, it must be assessed for the whole period during which it was not taxed. However, back taxes may be assessed for three years only. Assessments of such property must appear on a supplemental roll, and the roll must be open to examination for 10 days to allow taxpayers to protest the assessment. If the assessment is not challenged, it becomes final.

### UNKNOWN OWNERS

Property of unknown owners must be separately valued and assessed by assessors. (A tax collector who discovers the real owner of such property must notify the owner that his or her property has been assessed to an unknown owner and request the real owner to come forward within 10 days of the notice.)

### CLERICAL ERROR OR ERRONEOUS ASSESSMENT

Upon showing an assessment is a clerical error or an erroneous or double assessment, or that the property is exempt from taxation, the Louisiana Tax Commission directs the collector to correct the assessment on the roll. In addition, when property erroneously assessed has been sold for taxes, the commission directs the recorder of mortgages to cancel the sale.

### APPEALS

For a 15-day period sometime between Aug. 1 and Sept. 15 (in Orleans Parish, Aug. 1-15) the assessment lists of each parish are open for public inspection. The assessor will publish in the local newspaper which two weeks apply. During this period, taxpayers should check the values on their property and discuss this with the assessor. If the taxpayer decides to appeal, he or she must at that time fill out a "Notice of Appeal Request For Board of Review" (Form 3101) and schedule an appearance before the parish board of review. Parish board of review hearing dates are published in the local newspaper.

The board of review will determine if changes should be made to the assessment values in question.

Taxpayers dissatisfied with the decision of the board of review may file an appeal with the Louisiana Tax Commission within 10 days. The Tax Commission will notify the taxpayer of its decision, in writing. Taxpayers may appeal the commission decision within 30 days to the district court level.

**Note:** Taxpayers considering appeals are encouraged to consult the assessor, parish board of review and the Louisiana Tax Commission for specific procedures, dates, times and places of all hearings.