RETC
PROPERTY TAX CONSULTANTS

Property Tax – Complex Industrial Property

By David Martinez – Property Tax Director, RETC

Each year appraisal districts are tasked to appraise all real estate and personal property values. Texas property tax code requires all businesses to file a business personal property tax return by April 15 of each year which must include the fixed asset location, acquisition date and cost of all assets and inventory. The appraisal district then applies a standardized depreciation table to the fixed assets in order to derive their value.

However, with a lack of resources and several hundred thousand accounts in each district, appraisal districts are forced to appraise values based on a mass appraisal technique in order to meet their deadlines. The mass appraisal technique does not take into consideration any unique functionality for complex industrial personal property or real estate valuations. And, if the values are not evaluated each year, significant overpayment of real and personal property taxes or double taxation may result.

Risks for Increased or Double Taxation

The property tax code specifically enumerates the taxation of personal property tax and real estate tax based on market value. However, as it relates to the personal property filing, the standardized depreciation schedules appraisal districts use during the mass appraisal process do not always result in the true market value of the fixed assets or inventory. For instance, industrial complex properties have unique fixed assets such as heavy machinery and equipment, and the equipment should be inspected for depreciation and value prior to filing each year.

First, owners should update the fixed asset listings and ensure only those assets that are still being used by the company are included in this list. For example, many assets may have a net book value of zero and are never properly removed from the fixed asset listing if they are disposed of – reviewing this fixed asset list annually will help eliminate being over taxed for assets the company no longer owns.

Next, the standard depreciation tables usually allow a categorization of assets to machinery and equipment, furniture fixtures, computer equipment, etc. However, industrial complex properties typically have large capital-intensive assets, such as cranes or drilling equipment that are typically overlooked when filing a return. The fixed assets need to be reviewed to determine which classification they should be placed in. Some items may have large computerized components, tooling or molding components that can be separated out from the listing allowing for a faster depreciation of part of the asset. For example, if a company purchases a large printing press which also includes the use of a computer, owners can list the computer under computer equipment, to lower the value of the printing press as a fixed asset to allow for faster depreciation.

Another point to consider is obsolescence. As these large, complex industrial assets age, they typically become more obsolete due to new technology, economic or environmental changes. This significantly reduces the value of the equipment and should be accounted for when establishing the value with the appraisal district. For example, if production has been reduced resulting in a line of equipment being shut down for part or all of the previous calendar year, that equipment can take an additional factor on top of the standard depreciation. There could also be an obsolescence factor added to super adequate producing equipment that has the capability to produce a significant amount of product beyond the business' needs.

Finally, double taxation can occur if fixed assets are reported as business personal property, but otherwise would be considered real estate and are being taxed on both the personal property and real estate accounts. The distinguishing lines between real and personal property taxes become blurred with complex property types. Typically, permanent attached improvements to real property are considered real and anything that can be moved without significant damage to the real property is tangible personal property. Large manufacturers have to take into consideration several assets that fall in the grey area, especially because the mass appraisal technique does account for this. For example, a water line that has a single purpose to keep a piece of machinery cooled in production would be considered personal property, but a water line that is routed to the break rooms would be considered real property.

It is important to hire a professional property tax advisor to assist with these filings to proactively review the filing methodology.

The Appeal Process

Once the personal property rendition is filed, the appraiser at the taxing jurisdiction will review the filing and send the appraisal district a notice of value. Additionally, the real estate value is typically set and the notice of value is usually mailed by May 1. If the market value on either the personal property or real estate account is not in line with the true market value, the value must be appealed in writing by May 31 or 30 days from the date of notice. Once the appeal is filed, the appraisal district will usually allow the company or its consultant to discuss the issue/s with the valuation informally. If a settlement cannot be agreed upon, the appeal must go to a formal level. The formal appeal allows the company to explain its valuation issue/s to a panel of three independent appraisal review board (ARB) members. These members are citizens of the state authorized by state law to resolve protest disputes between the tax payer and appraisal district. The appraisal district is also given the opportunity to state its stance on the initial value to the ARB. The ARB will make a final decision on the value once hearing both parties' arguments and will mail a final order to the tax payer. The ARB panel may not understand the unique valuation methodologies involved in the valuation of large industrial complex properties which does not always result in a fair value from the formal hearing. Once the final order is received, the company has 60 days to file a lawsuit against the appraisal district. Most lawsuits do not go to full litigation and are typically settled informally. Discussing the cost benefit of the lawsuit with a tax professional is recommended.

The Texas property tax code is more than 750 pages and can be as complex as the federal tax code. This, coupled with the complexity of valuation techniques for industrial properties can result in significant overpayment in property taxes or double taxation as discussed above. Property taxes are typically one of the largest fixed expense items for many companies – owners should review their assets annually and consider consulting with a property tax professional in order to ensure both real and personal property are being valued fairly for their industrial properties.