PROPERTY TAX UPDATES & TRENDS - INDIANA

- **Lien Date Change**
  - Indiana changed the lien/assessment date for property taxes to January 1 starting 1/1/2016
    - In line with date most states use
    - Will make the “year/period” the taxes cover more straightforward in real estate transactions
    - Should make running reports for personal property compliance easier & line up with financials
      - CIP
      - Asset listings
      - Abatement reporting for headcount & wages
    - Personal property return was revised for current year only, left prior years under 3/2 – 3/1 format primarily over taxpayer concerns about abatements
PROPERTY TAX UPDATES & TRENDS - INDIANA

Form 136 Exemption Filing Date Change
- Effective 2016
- Filing deadline changed from May 15th to April 1st
  - Year preceding exemption benefit
- Form 136 must be re-filed every even year thereafter
- Applications under charitable exemption do not need to be re-filed unless a percentage change occurs
  - Onus on the taxpayer
- Percentage can apply to both land and improvements

Cyclical Reassessment
- Effective July 1, 2014
- Ongoing update to 2012 General Reassessment
- Spreads the reassessment activities over a four year period
- All real property within a county is divided into four groups
  - Residential
  - Agricultural
  - Commercial/Industrial
  - Utilities/Exempt
- 25% percent of parcels within each group are reassessed annually
PROPERTY TAX UPDATES & TRENDS - INDIANA

- **Abatements – The Traditional Kind**
  - Range from 1 – 10 years in length
  - State has prescribed benefit schedules based on number of years granted
  - No longer just for manufacturing equipment
    - Logistics
    - Research & Development
    - IT
    - Can have more than one category on an abatement, but make sure you spell that out on SB-1/PP and application

- **A Newer Variety – Effective 2011 (IC 6-1.1-12.1-17)**
  - Governing body can grant abatement for up to 10 years
  - Deduction percentages are determined by the governing body and can be up to 100% for the 10 year period

- **The Newest Variety – 2014 Legislative Session**
  - “Super Abatements” enacted per SEA 1
    - Expands the maximum abatement period for personal property from 10 to 20 years
    - Requires governing council to conduct public hearing to review taxpayer’s compliance after the 10th year of the abatement

- **2015 Legislation – De Minimis Exemption**
  - A taxpayer’s personal property in county that is less than $20,000 in cost is exempt
    - State incorporated affidavit into top of Form 103 – PPT return form
    - County Council can impose a fee of up to $50 on taxpayer’s claiming the exemption
PROPERTY TAX UPDATES & TRENDS - INDIANA

- **Property Tax Caps**
  - 1% for residential owner occupied property
  - 2% for rented residential use and long term care
    - Effective 14p15, common area is included as Cap 2
  - 3% all other commercial/industrial property

- **Tax Caps and Abatements – The Unintended Consequence**
  - Advent of tax caps has created an issue with abatements
    - 3% cap applies to gross assessed value, but actual rate applies to net assessed value
    - Taxpayers lose abatement benefit if gross rate is over 3% and all benefit if rate is high enough
    - As more taxing jurisdictions increase the gross tax rate this issue is becoming more prevalent

- **Example – would be same for RE or PP**
  - Gross Assessed - $10,000,000
  - Abatement Deduction - $4,000,000
  - Gross Tax Rate - 4%
  - Net Assessed Value - $6,000,000

- **Maximum Tax under 3% cap**
  - $10,000,000 x 3% = $300,000

- **Tax if net assessed value was subject to cap**
  - $6,000,000 x 3% = $180,000

- **Tax under Indiana’s current rules**
  - $6,000,000 x 4% = $240,000

- **Abatement Benefit lost due to caps**
  - $240,000 - $180,000 = $60,000
  - Taxpayer loses half of abatement benefit

- If abatement deduction was $2,000,000 – taxpayer would receive no benefit.
  - $8,000,000 x 4% = $320,000. 3% cap would apply & taxes would be $300,000. Is this the intent?
PROPERTY TAX UPDATES & TRENDS - INDIANA

Audit Activity

- More Indiana counties are conducting personal property audits
  - Marion, Lake, Delaware, Tippecanoe, Vanderburgh, Allen, Hamilton, Hendricks, Clark and several more
  - Local jurisdictions are facing fiscal pressure, many due to tax cap issues, and PP audits are an additional source of revenue
  - Tax Management Associates is essentially the exclusive auditing firm in Indiana
    - Generally auditors are easy to work with
  - Have started looking to property record card information on some real vs personal property tax items
    - Would seem to fly in the face of market value in use vs old cost-based system
    - Some counties are applying additional $25 penalty to any audit assessment

PROPERTY TAX UPDATES & TRENDS - INDIANA

Form 133 Correction of Error

- Factual errors in assessment
  - Objective in nature
    - Square footage, ceiling heights, framing, duplicate assessment, etc.
  - Taxes are illegal as a matter of law
    - Property tax caps
  - Error or omission of a credit, exemption, or deduction
    - Recourse for abatement miscalculations
    - Governing body
  - 6 tax installments of recourse from when taxes were first due
    - November installment can be captured for mid-year filings
PROPERTY TAX UPDATES & TRENDS - INDIANA

❑ Senate Bill 436 (Repealed In 2016)
  ▪ Big Box Retail
    • New assessment guidelines effective 2014 (14p15)
    • Applies to improvements 50,000 square feet and above
    • Occupied by the original owner and less than 10 years of age
    • Cost approach is the only accepted valuation approach
      – Depreciation and obsolescence apply
      – Cost data must be submitted
      – Land is assessed separately
  ▪ Other Commercial & Industrial Property
    • New assessment guidelines effective 2014 (14p15)
    • Applies to improvements less than 10 years of age
    • Sales utilized within a valuation approach may not have been vacant for more than 1 year
      for commercial property and 5 years for industrial property.

❑ House Bill 1290
  ▪ Signed March 24, 2016
  ▪ New assessment guidelines effective January 1, 2016 (retroactive)
  ▪ Legislation replaces Senate Bill 436
  ▪ Value does not equal true tax value if comparable sales represent a different market or submarket
    • Market segmentation analysis required
      – Determines the highest and best use
      – Must conform with appraisal principals
      – Not limited to markets and submarkets established by the DLGF
  ▪ Potential issues?
    • Subjective
    • Dependent on an appraiser’s opinion
PROPERTY TAX UPDATES & TRENDS — INDIANA

- **Burden of Proof**
  - **5% Rule (IC 6-1.1-15-17.2(a))**
    - Any assessment increase in excess of 5% results in the burden of proof shifting to the assessing authority
      - Gateway Arthur, Inc. v. Marion County Assessor
  - **Subsequent Year Change to PTABOA Decision (IC 6-1.1-15-17.2(d))**
    - Any assessment increase from a prior year PTABOA decision results in the burden of proof shifting to the taxing authority
- **Exclusions**
  - Form 133
  - New construction
  - Parcel consolidation
  - Value derived via income approach

PROPERTY TAX UPDATES & TRENDS — INDIANA

- **Direct File to Indiana Board of Tax Review**
  - **180 day threshold**
    - Applies to Form 130 Appeal, Form 136 Exemption, and Form 133 Correction of Error
- **Multiple County PTABOA**
Michigan Personal Property “Phase-Out”

- In December of 2012, Michigan announced a personal property phase-out
- The phase-out only applies to Eligible Manufacturing Personal Property (EMPP)
  - Includes property used in industrial processing, R&D, and direct integrated support (very broad)
    - Production & assembly
    - Research & development
    - Engineering related to industrial processing
    - Inspection, quality control and testing
    - Planning, scheduling, supervision or control of production or other exempt activities
    - Design, construction & maintenance of exempt machinery
    - Receiving & storing of raw materials, WIP & FG
  - Predominant use standard applies – look at aggregate cost & use to calculate percentage

EMPP is subject to Essential Services Assessment (ESA) in lieu of “regular” personal property tax

- ESA is administered by the state
- For 2016, assets acquired after 12/31/2012 and before 1/1/2006 were part of phase-out. Every year the oldest year will become eligible for ESA until in 2023 all EMPP is eligible. So in 2017, assets acquired before 1/1/2007 are eligible.
- Form is simple, as cost is used and no depreciation is applied – regular PP & EMPP are reported on the same form due in assessors hands by 2/20
- Requires second on-line filing & payment to state for ESA payment – 8/15 due date
- Rates are same for all jurisdictions & decrease as assets get older
  - 2.4 mills for 1 – 5 year old property
  - 1.2 mills for 6 – 10 year old property
  - .9 mills for property over 10 years old
PROPERTY TAX UPDATES & TRENDS - MICHIGAN

- State will have auditing authority again in Michigan
  - Expect some type of state-run audit program eventually based on prior state-sponsored audit program during early 2000’s
- ESA is an exemption – similar to other states if you don’t timely file for the exemption you waive your right to claim it. Therefore – No amending
- Have special rules for personal property subject to IFT’s (abatements) & other MI property tax incentive programs

Starting in 2014, MI enacted a Small Taxpayer Exemption for taxpayers with less than $80,000 in True Cash Value (after applying MI depreciation schedules)
- Must calculate value & apply for exemption every year
- All taxpayers are eligible – no property type restrictions
- Jurisdictions are being very stringent with guidelines & denying eligible taxpayers for minor filing items.
- Form is due February 10th, postmark rule applies to this filing

PROPERTY TAX UPDATES & TRENDS - MICHIGAN

- Proposed HB 5578 - Retail Big Box
  - Michigan Tax Tribunal requirements
    - Highest and best use
    - Considers all three approaches to value
    - Comparable properties
    - Limits the use of deed restrictions

- Menards Inc. v City of Escanaba
  - Michigan Court of Appeals
    - Reversed Michigan Tax Tribunal decision
    - Sales comparison approach vs cost approach
      - Deed restrictions
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