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# Tax EQUATION

*Know when your property tax assessment is excessive.*

**R**estaurant owners and operators manage a long list of expenses, but one cost item that may offer significant savings — real estate taxes — often goes overlooked. Even if the restaurant leases its space, it may have the right under the lease to protest tax assessments.

Restaurateurs often look at property tax as a fixed expense, one that warrants little attention unless there is a drastic change from one year to the next. But failure to examine a property tax assessment may mean the taxpayer is leaving money on the table.

For example, the owner of a free-standing restaurant assessed at \$1 million files a protest and convinces tax authorities to lower the assessment to \$800,000. Using a local tax rate of 2.5%, the lower assessed value would equal \$5,000 per year in savings. In some areas the tax rate may be significantly higher, meaning greater savings. Depending on the jurisdiction, that savings could continue for years.

## HOW TO REVIEW ASSESSMENTS

What is an assessor attempting to measure in an assessment, and what constitutes a bad assessment? Procedures vary from state to state, but in most places property taxes

are based on the fair market value of the property as determined by the local assessor. The market value is typically considered to be the price that the property would sell for in an open-market, arm's length sale as of the assessment date.

There are a number of reasons why some assessments miss the mark in attempting to establish a fair taxable value. Many initial assessments are done by mass appraisal firms on a city- or county-wide scale, without much consideration for the individual situation of a particular property. Assessors also may have inaccurate data on a given restaurant building, such as incorrect square footage or age, or amenities that do not actually exist.

An assessment may be unfairly high because it is based on a sale that occurred in a better market, or because it reflects costs to construct the building but lacks appropriate deductions for depreciation. An assessment may also reflect a lease

with an above-market rental rate negotiated in different market conditions, or negotiated many years prior to the assessment date.

Given so many opportunities for error, it's a good idea to review each assessment. The first thing to check is the factual data the assessor used in the determination of value, including building area, acreage, year built, type of building and finish and amenities. Experienced legal counsel can help with these points and proceed with a more technical review of the assessment to determine whether or not to protest the assessed value.

## HOW TO PROTEST

Appeal deadlines vary from state to state. Some states have an annual filing deadline, such as Ohio, where the deadline is March 31. Other states allow a certain amount of time — for example, 30 days — from the mailing of the assessment notice or tax bill.

Some jurisdictions have informal procedures prior to filing the formal appeal, where it is possible to meet with the assessor and share information. In some cases, providing the assessor or reviewing body with income and expense information or comparable sales data will be enough to get the assessment corrected. Other cases will require a formal appraisal prepared by an independent appraiser. Appraisals done for tax purposes are unique and in most instances will require testimony from the appraiser.

In many jurisdictions, there is no filing fee for the initial appeal, while others may charge a modest filing fee in the neighborhood of \$100. If the state requires a formal appraisal, that can cost \$2,500 or more, depending on the property type and complexities of the case. Legal fees also vary, but property tax attorneys often work on a contingency basis where there is no charge for the initial review of the assessment.

Because valuation methods and appeal procedures differ greatly, not just from state to state but even within states, it is helpful to have an experienced tax professional assist in reviewing the assessment and in taking any necessary steps to correct it. Knowledge of the local law, appeal procedures, personalities, and appraisers are invaluable in successfully lowering tax liability.

Real estate taxes needn't be a fixed expense that is entirely out of the taxpayer's control. Review property tax assessments carefully for possible tax savings that could even increase the bottom line. ♦

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