

GROWERTALKS

Features

4/28/2017

A Taxing Situation

Mark E. Battersby

Despite all of the attention focused on income taxes, it's the bill for the tax on the property owned—or leased—by many commercial growers and greenhouse operators that's the biggest expense and the most difficult to manage.

According to the Council on State Taxation, a Washington, D.C. think-tank, property taxes are by far the largest state and local taxes paid by businesses.

Nearly all property tax imposing jurisdictions tax real property. This includes land, buildings and all improvements (often called fixtures) that cannot be removed without damage to the property. Many jurisdictions also tax certain types of other property, equipment or machinery used in a business.

Depending on the size of the structure, type of construction material used, the layout, intended production (wholesale vs. retail) and how the structure is erected, many greenhouses are also subjected to the property tax.

Lowering a growing operation's property tax bills can often generate major savings because, once reduced, those savings will remain effective year-after-year. Lowering property tax bills is both feasible and even necessary in today's economy. Even better, it lowers your tax bills and can often be accomplished with a few simple strategies—strategies that have worked in all of the more than 14,000 taxing jurisdictions.

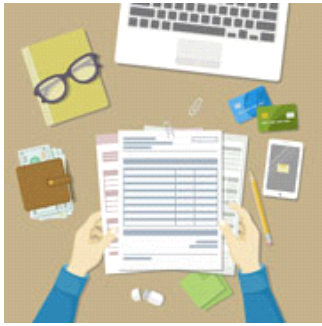
The systems

Unlike most taxes, property taxes are computed by the local government and the taxpayer is usually told only what or how much to pay. With so many taxing jurisdictions, many staffed with unelected or inexperienced officials charged with placing a value on properties, it's little wonder that so little is understood about this tax.

Few business owners or managers are aware of how easy it is to check the computation of that property tax bill—as well as that of the underlying valuation. Armed with a few facts about your property, it's relatively easy to review the tax assessor's records.

Most tax assessors, elected or not, are usually eager to cooperate and are often willing to correct any errors detected and brought to their attention. Because property tax records are considered public records—and,

as such, are available to everyone—there are a number of strategies any property owner can use to reduce property taxes.



Renters pay taxes, too

A surprising number of growing businesses own little or no property, however, just because the business rents its shop, greenhouse or office space, doesn't mean that property taxes can be ignored. In the Northeast, for example, studies show that property taxes range from 15% to 25% of the total rent paid by most businesses.

While few growers have the clout to insist that their lease require the landlord to initiate a property tax protest, such a clause is strongly recommended by many real estate experts. Ownership of the property and a direct relationship with the taxing authority often makes it better from both a logistical and legal standpoint for the landlord to lead the battle for lower or more equitable property taxes.

Reducing the bite

Those wishing to reduce the property taxes on their business property can take a variety of approaches. By law, in many taxing jurisdictions, certain single-use agricultural or horticultural structures are exempt from property taxes. Generally, readily demountable greenhouses qualify as single-use agricultural or horticultural structures.

When the greenhouse is dismantled, it can be removed without damage to the structure or to the real property. However, the exempt greenhouse cannot enclose a space within its walls used for housing, shelter or working office or sales space, regardless of whether movable or not.

However, to have a productive conversation with an assessor, other good points that you should be knowledgeable about or question include:

- What prices similar properties or buildings have sold for in the jurisdiction helps determine whether the assessed value of the business' property reflects current market conditions.
- Comparing the assessment to neighbors to discover what other area businesses are paying to ensure the property's taxes are in line with theirs. Paying more than your business neighbors is usually grounds for appeal.
- Contacting the local tax office to find out how appeals are filed. Sometimes, business property taxes can be reduced with a simple tax appeal involving the valuation of equipment, furniture, computers and inventory.
- Tax rates are often linked to the various zoning classifications, making it a good idea to contact the local state tax office to determine if the property's zoning classification is accurate.

Remember that several factors can influence a change in commercial property taxes, including a change of ownership or new construction. There also may be grounds for an appeal if it can be shown that the type of real estate owned—greenhouses, agricultural land or commercial buildings, for example—has failed to keep

pace with the local market. However, upon receiving the annual commercial tax assessment, if it's to be questioned or an appeal filed, don't delay. In some states, there's a 60- or 90-day period to file an appeal or lose the right.

In general, the states employ various provisions to remove property from the tax base. Certain types of property are granted full or partial exemption based on the characteristics of the property and/or its owner. In some states, different types of property are assessed differently or taxed at different rates.

Agricultural land, for instance, is usually taxed at a lower rate than residential or commercial property. Almost every state provides some type of preferential treatment for farmland—farm fields are assessed at below-market value as long as they're being actively used for agriculture production.

Agricultural land is typically land devoted to agriculture, the systematic and controlled use of other forms of life—particularly the rearing of livestock and production of crops—to produce food for humans. Structures and buildings essential to the operation of agricultural and horticultural enterprises and used for such purposes are often exempt from property taxes.

Another overlooked strategy for reduced property taxes lies with conservation easements. Easements don't eliminate the current use or management of land in most circumstances, but simply protect it from being parceled or developed. Although more often thought of as strategies for reducing or avoiding inheritance taxes, federal income tax reductions for development rights also impact the property tax bill.

Fighting the property tax assessment

Each taxing jurisdiction has its own specific requirements for property tax appeals, which can sometimes be used in your favor. But all property taxes are considered “*Ad Valorem*” taxes; that is, taxes based on the value of the property.

Thus, armed with a few facts about the property, it's relatively easy to review the tax assessor's record for the property. Errors do exist: two-story buildings where only a one-story building stands, a 200-ft. building on a lot only 75-ft. deep, basements where none exist, parking lots that are really on a neighboring property... Math errors and mistakes in the property's measurements, constructions materials, roof type and condition are also quite common and usually corrected by the property tax assessor on the spot.

If the assessor cannot or will not correct discovered errors, or if you want to challenge an assessment on the grounds that it's not comparable to other, similar properties, the matter is usually presented to a local appeal review board. The next step is to present the case to the state board of appeal. And, finally, in those rare instances where these steps have failed, the entire matter may be taken to court.

On the horizon

In response to what anti-tax advocates have branded as “out of control” property taxes, a number of states have decided to make use of tax “caps” to restrict the growth of local property taxes. A tax cap limiting increases in assessed value offer taxpayers a degree of certainty by allowing them to estimate their anticipated property tax burdens more easily. On the other hand, tax caps on assessed value in particular can lead to tax disparities among property owners and lower the revenue of fiscally-strapped local taxing

jurisdictions.

Bottom line, few growers think about property taxes. A number of years ago, a study showed that few major, Fortune-500 companies bothered to challenge the assessment on their properties. According to that study, however, almost nine of 10 companies that did challenge their property tax assessments were successful.

Fortunately, there are a number of very good consultants who can help reduce local property taxes. Many will work entirely or largely on a contingency basis. There are also attorneys—known as “certiorari” or property tax protest attorneys—who provide such services. **GT**

Mark Battersby is a freelance writer who specializes in business finance. He can be reached at mebatt12@earthlink.net