

Need for a license ensures you pay your taxes

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compliance. Moreover, the review for tax compliance can encompass quite a few years. For instance the state can and has reviewed one's tax compliance as far back as 20 years. In addition, taxing authorities have often organized their revenue department operations so there is a division to review one's compliance for tax debts. In some instances, however, a person may be requested to go to another department all together (like Chicago's Department of Business Affairs) to receive tax compliance clearance or indication of the amount owed.

The most common taxes for which the state issues license/certification denials of the initial request and/or renewals as well as institutes revocation proceedings are income, sales and withholding taxes. However, other taxes enforced and administered by the state can also serve as the basis of a license/certificate denial or revocation when a tax compliance failure for such taxes is identified. The sales taxes of local jurisdictions are the most common of the taxes the state enforces and administers on behalf of others.

MPEA taxes and Chicago's soft drink taxes are also other taxes enforced and administered by the state just to name a few. In municipalities, the most common taxes that can serve as the basis of a local license denial, a denial of a renewal or a revocation proceeding are the amusement, hotel, leasing and parking taxes.

Notably, it is also not unusual for multiple taxing authorities to seek tax compliance through license denials or revocations simultaneously. This often requires clearance by each individual taxing body such as liquor and cigarettes. Hence, clearance of any past tax obligations by each taxing body will be required prior to the grant of the initial license or its renewal.

In summary, in these dire economic times enforcement of tax compliance has become a high priority of government. License and certificate denials, denial of renewal requests or revocations have become an effective way to ensure not only tax compliance but more often than not garner money. Therefore, a person seeking the issuance of a license or

renewal may experience serious obstacles if there are outstanding tax, penalty and interest obligation unpaid. Only complete compliance such as payment and filing of the necessary returns (with payment) will generally allow a person to obtain its license, its renewal or a certificate sought. Sometimes payment plans for past tax obligations are the option afforded for the satisfaction of the tax debt. Yet, it is not uncommon for the taxing body to demand complete and full compliance/payment in a period of generally 30 to 60 days. If such compliance is not achieved not only will the license or certificate not be granted, the debt will be referred to either the collection section of the taxing body or more often than not an outside collection agency.

So now you know. The initial or continuous operation of a business or occupation that require issuance of a license or its renewal, as well as, maintenance of a certificate are heavily dependent upon tax compliance, lest the ability to open and operate such business or occupation will be denied. ■

Calumet Transfer v. Illinois Property Tax Appeal Board

By Bill Seitz

On May 14, 2010, the Illinois Appellate Court, Sixth Division issued its decision in *Calumet Transfer v. PTAB*, 1-08-3291 & 1-08-3292 Cons. The case was argued on March 4, 2010 (the panel was Cahill (presiding), McBride, and Gordon).

This case involved the LTV Steel Co facility for the 2003 and 2004 Years. There were two parcels of property at issue: the coke production property and the blast furnace property. This company went into bankruptcy and the property was sold in the bankruptcy court.

After hearings, the PTAB "no changed" the parcels. The appellate court affirmed both PTAB decisions.

The Taxpayer argued in the alternative.

1. QUESTION OF LAW (*de novo* standard of review)

The Taxpayer argued that the PTAB erred

as a matter of law in holding that the sale of property through bankruptcy defeats the presumption that the sale was "in the due course of business and trade, not under duress, between a willing buyer and a willing seller" (at arm's length).

The Taxpayer asserted the law as providing that PTAB's findings on questions of law are not binding on the court, and the reviewing court considers those questions *de novo*. If a case involves an improper method of valuation, then the court must determine whether PTAB erred as a matter of law. Where an appeal requires the Court to address appropriate factors that PTAB should consider in determining property value, rather than the correct value of the property in question, review is without deference to PTAB's conclusions in the matter.

Result: The Court found that the PTAB did

not hold that a sale through bankruptcy cannot be considered an arm's length transaction as a matter of law. Therefore, the court did not accept the Taxpayers' characterization of the issue as being a question of law. Rather, the court agreed with PTAB and noted that PTAB allowed the Chicago Board of Education (CBE) to challenge the arm's length nature of the transaction by offering comparable property sales.

2. FINDINGS OF FACT (manifest weight standard of review)

The Taxpayer argued that the PTAB's determination of fair cash value in this case was against the manifest weight of the evidence.

Law. PTAB's findings and conclusions on questions of fact shall be held to be prima facie true and correct and shall not be dis-

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turbed on review unless they are against the manifest weight of the evidence. Courts will not intervene in cases where there is simply a difference of opinion as to the actual value of property.

Result: Relative to the coke production property, the Court found that the CBE evidence presented of comparable property sales that were much higher than the pur-

chase price paid was sufficient to call into question the arm's length nature of the transaction.

Relative to the blast furnace property, the Court found that the PTAB decision to not place significant weight on the price paid for the property, due to the circumstances of that sale by the bankruptcy nature of the transaction is supported by the evidence. ■

Comparable sales are admissible to establish whether bankruptcy sales reflect market value

Calumet Transfer LLC v PTAB, Appellate Court, First District, Docket No's. 1-08-3291 and 1-08-3292, 2010 WL 1960882, May 14, 2010.

By Tim Moran

Property owner sought review of real estate tax assessments on properties it had purchased from companies in bankruptcy, for which the assessor and board of review refused to set the assessed values according to the prices paid but instead had assessed at much higher values. An appraiser for the intervenor board of education testified that the sales prices did not reflect fair market values because the sellers were in bankruptcy at the time and were under pressure from creditors to sell, and submitted his appraisal report establishing a value higher than that of the board of review, based in part upon sales of comparable properties which had sold at higher prices. Property owner's appraiser testified that the prices represented fair market value because the sales, although from sellers in bankruptcy, were conducted at arm's length, and submitted his appraisal report defending the sales prices, based in part upon comparable sales two of which were also bankruptcy sales. Property owner argued that PTAB erred by considering evidence outside of the sale prices to determine the values, citing *People ex rel. Korzen v. Belt Ry. Co. of Chicago*, 37 Ill. 2d 158, 161, 226 N.E. 2d 265 (1967) for the proposition that a contemporaneous sale between parties dealing at arm's length is not only relevant to the question of fair cash market value, but would be practically conclusive on the issue. Property owner also argued

that PTAB erred in holding that as a matter of law a sale through bankruptcy cannot be considered an arm's length transaction. In affirming PTAB, the court disagreed with both of property owner's positions, finding that PTAB had not held that a sale through bankruptcy cannot be considered an arm's length transaction as a matter of law, but rather that PTAB allowed the arm's length nature of the bankruptcy sales to be challenged by offering evidence of comparable property sales as permitted by PTAB rule 1910.65(c) (86 Ill. Adm. Code sec. 1910.65(c)(4)) which allows evidence of comparable property sales to prove fair market value. ■



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