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2022 Legislative Update Manufacturer's Property Taxes

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MANUFACTURER'S PROPERTY TAXES

South Carolina previously had some of the highest property taxes in the country on manufacturers. The General Assembly dramatically lowered Property Taxes on manufacturers in the 2022 legislative session.

PROPERTY TAXES

Manufacturer's Property Taxes

The General Assembly passed legislation which effectively lowers the assessment ratio for manufacturers to 6%. As you know, the equation for calculating property taxes is:

FMV *Assessment Ratio* combined millage

PROPERTY TAXES

Manufacturer's Property Taxes

For decades the assessment ratio for manufacturers was 10.5%, which is actually in the SC Constitution. (This is why the bill increases the exemption %, rather than amends the assessment ratio.) The Gas tax bill effectively lowered it to 9% over a six year period. The new legislation immediately lowers for a manufacturer's real and personal property (M & E) the assessment ratio effectively to 6%.

PROPERTY TAXES

Manufacturer's Property Taxes

This is fabulous news to (1) manufacturers with assets which predate fee in lieu; (2) manufacturers who acquired assets after their fee investment period had run; (3) manufacturers whose fee in lieu is expiring; and (4) small and medium size manufacturers who never got a fee in lieu.

PROPERTY TAXES

Manufacturer's Property Taxes

Manufacturers who did a fee-in-lieu in the late 1980s or early 90s will see their fee-in-lieus expire. Fee-in-lieus now last 30 years but they lasted 20 years in the 1980s and 90s. This was previously a huge tax hike when the fee-in lieu expired – the assessment ratio went from 6% to 10.5% and you face being taxed at today's millage rather than the millage 20 or 30 years ago. Under the legislation the effective assessment ratio will not go up when the fee expires.

The investment period in a fee is either 5 or 10 years. Legislation allows a 10 year investment period but many counties would only give 5 years and told the manufacturer to come back in 5 years to get a 5 year extension. Of course, no one calendared this and the investment period ran. Previously investments made in year 6 were automatically taxed at 10.5% if the extension was not timely applied for or granted.

PROPERTY TAXES

Manufacturer's Property Taxes

It's fabulous news to local governments as they will now be reimbursed (up to a statewide cap of \$170 million) for the tax revenue losses resulting from the reduction in the assessment ratio. Local governments have never been reimbursed by state government for revenue losses from fee in lieu, which in most cases lowered the assessment ratio from 10.5 to 6%, a 43% tax savings. (Counties were reimbursed for the manufacturer's abatement for manufacturing projects not in a fee-in-lieu.)

PROPERTY TAXES

Manufacturer's Property Taxes

Fee in lieu had several advantages and disadvantages to manufacturers. The major advantages were (1) lowering the assessment ratio to 6%; (2) freezing the millage; (3) freezing the value of the building (advantage to commercial but a disadvantage to manufacturers); (4) eliminating roll back taxes; and (5) Special Source Revenue Credits for the largest projects. The disadvantages are (1) elimination of manufacturers abatement (county portion of the millage, typically 20-30%); (2) freezing the value of the manufacturer's building, which can decline precipitously in value; and (3) elimination of the Local Option Sales Tax credit.

PROPERTY TAXES

Manufacturer's Property Taxes

As a practical matter, you may now see few fees for small and medium size manufacturing projects. You will continue to see them for warehouse, distribution (whose material handling equipment is taxed at 10.5%) and commercial. Why would a manufacturer not want to do a fee? It now has a 6% assessment ratio (same as under a fee) plus the manufacturer's abatement for new investments and LOST credits. The manufacturer's abatement can be 20-30% of the tax bill. It is the County portion of the millage. But if you don't do a fee, you do not have the millage freeze, and will face rollback taxes if the manufacturing property was previously taxed as agriculture.

PROPERTY TAXES

Taxes on Manufacturers Millage Freeze

Fee-in-Lieu can freeze the millage for either the life of the fee or it can be reset every 5 years. Act 388 imposed a hand freeze on local government's ability to raise millage. Under prior law, a positive majority of the local governing board could raise taxes. Under Act 388, millage can only be raised in limited circumstances. One of these permitted circumstances is to the extent of the increase in the average of the 12 monthly consumer price indices for the most recent 12 month period consisting of January through December of the proceeding calendar year plus the percentage increase in the previous year in the population of the local government.

PROPERTY TAXES

Taxes on Manufacturers Millage Freeze

Millage increases have been nominal for most local governments over the past 8-10 years as CPI growth has been nominal. The CPI in calendar year 2021 was 7.5%, the largest increase since 1982. Many areas of South Carolina have received large population growth as well. SC was the third most moved-to-state in 2021 according to a study by United Van Lines. These factors may set the stage for millage rate hikes by local governments. Monks Corner just announced a 15% tax hike!!

PROPERTY TAXES

Manufacturer's Property Taxes

Large manufacturing projects may still want to do a fee particularly if they qualify for a super fee or purchased property taxed as agriculture. Rollback taxes for a property taxed as agriculture can be significant for large sites, particularly in the low country. Because fee in lieu is a contract many large manufacturers will still want to do a fee in lieu as the above statute can be repealed or amended in future years. (Since fee-in-lieu is a contract it remains in place regardless of statutory changes.) There is also a statewide reimbursement cap (see below), which might result in the assessment ratio effectively rising. Freezing of the millage may be a very significant incentive to do a fee-in-lieu in the years ahead.

PROPERTY TAXES

Manufacturer's Property Taxes

Some manufacturers will look at terminating their fee if their millage has not gone up and they anticipate future investments subject to the manufacturers abatement. The county is likely to agree as presumably they will be reimbursed for the tax savings for the preexisting investment. Where there is a concern that millage will go up the county can presumably cure by granting a naked MCBP with a SSRC equivalent to the millage increases and freeze it in the future. This naked MCBP has advantages for both sides. Local government will be reimbursed by the state for the effective lowering of the property tax rate. The MCBP SSRC will lower the property tax rate in the amount of any future tax hikes.

PROPERTY TAXES

Manufacturer's Property Taxes

Some counties dedicate a percentage of fee revenue to their economic development fund. They need to convert to MCBP revenue.

PROPERTY TAXES

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You have all seen the recent publicity for the Good Jobs First report. The last report said that Berkeley County's fee-in-lieus cost the school district more tax dollars than anywhere in the United States. Local governments will now not report GASB 77 tax incentives for manufacturers who do not do a fee (i.e. lowering of the assessment ratio). GASB 77 doesn't require reporting of non-discretionary incentives.

PROPERTY TAXES

Manufacturer's Property Taxes

What happens if local governments hit the reimbursement cap? It was previously \$85 million and will increase to \$170 million. The Act provides that the assessment ratio reduction will be proportionally reduced so as not to exceed the cap. This means that if local governments are set to be reimbursed for more than \$170 million, the assessment ratio will increase from 6% to say 6.3% to keep the reimbursement at the cap of \$170 million. Last year the General Assembly reimbursed counties \$21 million for the reduction of the assessment ratio (10.5 to 9%) which was contained in the Gas Tax bill.

PROPERTY TAXES

Manufacturer's Property Taxes

When does the assessment ratio reduction go into effect? The Act says it applies to “property tax years after 2021.” Property tax year is a term of art and we are currently in property tax year 2023, so the reduction goes into effect this year.

PROPERTY TAXES

Manufacturer's Property Taxes

How will manufacturers get the savings? Manufacturers not in a fee in lieu file a PT-300 by April 30, 2022 (deadline for calendar year taxpayers). They will receive a Proposed Assessment from the DOR this summer/fall. Make sure your proposed assessment contains the reduction.

PROPERTY TAXES

Manufacturer's Property Taxes

In summary this is a huge win for manufacturers not in a fee. Warehouse, distribution and commercial will continue to seek fee in lieu. Warehouse and distribution personal property (material handling equipment, freezers, racking cranes) will be taxed at 10.5%. (Their real property, already taxed at 6%.) Large manufacturers will also do the same. Any property currently taxed as agriculture may face substantial rollback taxes and will want to do a fee.