

MORE THAN 100 REASONS TO USE P.E. PENNINGTON & CO., INC. FOR YOUR PROPERTY TAX APPEALS

- A-1 Transmissions
- AA Applicators (WMB Properties)
- Kenneth Abbott(Corporate Square)
- A & J Foods, Inc. (Wendy's)
- Algonquin Realty, Inc.
- Allen-CT/BTS Ltd.
- Alloy Casting Co., Inc.
- America's Pizza Company LLC
- ARCap Servicing, Inc.
- Arlington Senior Housing, LP
- Asel Art Supply, Inc.
- Aysha Foods, Inc.(Jack in the Box)
- Fred W. Baccus
- Barry Real Estate Companies
- BBT Corporation
- Helen Biderman
- Robert Brittingham
- Fred Brodsky Company
- Cadence Capital Group, Inc.
- Capstone Real Estate Services, Inc.
- Carleton Residential Properties
- Jeff Cassell
- Donald & Carolyn Caver
- CCI Manufacturing, Inc.
- CCISTech, Inc.
- The CEI Group
- Centaur Holding, Inc.
- Central Royal Plaza
- Central West Motor Stages, Inc.
- Cherry Hill Apartment Partners
- Christie Capital, Inc.
- CL&H Properties, Inc.
- CNC Realty Co.
- Columbia Residential
- Community Credit Union
- Continental Foods, Inc. (Denny's)
- Cornerstone Realty Income Trust
- Corr-Wood Manufacturing, Inc.
- Sam Croom
- Crossman Corporation
- Crosstimbers Capital, Inc.
- Cutting Room Supply, Inc.
- Dallas Aircraft Services, Inc.
- George H. Davis III
- Delphi Group, Inc.
- Denton Village East Apts. L.P.
- Michael E. Dyer Family, Ltd.
- Dywidag Systems International
- Edgewood Manor Senior Apts.
- eXegenics, Inc.
- Fielder C Partners, LP
- First Gulf Development Corp.
- Flexlink Automation, LP
- Frontline Property Management
- Four Stars Plumbing Co.
- G2 Capital Corporation
- Garland Steel, Inc.
- James S. Garvey
- Ali Gaziani
- The Genesis Real Estate Group
- Gillean Properties, Inc.
- Glorious Sun Property Mgmt.
- Greenway Investment Company
- Greenville Senior Housing, L.P.
- J. E. Griffin/24 Hour, Ltd.
- Grinnan Companies
- Randall Grubbs, Attorney at Law
- Hines Place Properties
- Bernard Hirsh Trustee
- The Hodges Companies, Inc.
- Hoss Equipment Company
- Hoss Equipment Nevada, Inc.
- Housewright Company
- HSR Plaza, Inc.
- Ibrahim Investment Corporation
- Insurance Technologies Corp.
- International Isotopes Idaho, Inc.
- Irving Mall Service Station
- JaGee Real Properties, LP
- R. E. James Gravel Co.
- Abdul Jitpuri (Convenient Stores)
- Mohammed I. Jitpuri (Restaurants)
- Jupiter Parkway Management LLC
- Kaizen Foods, Inc. (Burger Kings)
- K & D Leasing Company
- Ameer A. Khan
- Kiest Townhomes L.P.
- Jerry Kissick Custom Homes, Inc.
- Lake Cities Polaris & Maxum Boat
- Roger Lawler
- Thomas J. Lenihan
- Loma Alta Corporation
- Lone Star Container Corporation
- The Madison Commercial Group
- Magellan Property Management
- Man Arr, Inc. (Jack in the Box)
- Matthews Southwest
- Maverick Commercial Real Estate
- McElreath Family Ltd. Partnership
- Marshall McMillin
- Medoff Family Trust
- Meyer Hilltop GP LLC
- MHMR Senior Housing, L.P.
- MilesTek, Inc.
- Milliners Supply
- Millennium Motor Cars
- Russell Minton
- Miranda Partners, L.P.
- Mobius Investments, LLC
- Monsouni, Inc. (Burger Kings)
- Montero Family Restaurants
- P. O' B. Montgomery & Co
- Vincent Moran (CDP Corp.)
- Harper House, Inc.
- Myan Management Group
- Manucher Nazarian, M.D.
- Norstar
- The Oaks Bank & Trust Company
- Oasis Car Wash, Inc.
- David Obenchain
- O-Tec Computer Services, Inc.
- Paccar Leasing Company
- Pace Realty Corporation
- Pacitex Management
- Pappasito's Restaurants
- Paragon Industries, Inc.
- Natvarlal Patel
- Perfect Technology Center, LP
- Pegasus Transportation Group, Inc.
- Piper Weatherford Company
- Plastic Suppliers, Inc.
- G. M. Pointer Trust
- Progressive Marketing, Inc.
- Provident Management, Inc.
- Provident Realty Advisors
- Puppe, Inc
- Richard Ranger
- RBI Concepts, Inc.
- Red Steel Company
- James K. Reeves
- Regions Bank
- Saddock & Company, P.C.
- Sammons Realty Corporation.
- Sante Rehabilitation Group
- Saturn Square Realty Corporation
- S & D Family Partners, LP
- Sharp Westover Hills, L.P.
- Gary Shultz
- Sierra Management Company.
- Silver Tree Partners
- Smallwood Summit Partners, LP
- Judith O. Smith Mortgage Group
- Southwest Housing Management
- Spiritis Ranch Enterprises, LLP
- Spring Creek Co. (Restaurants)
- State National Bank of West Texas
- Sterling Center
- Stewart Avenue LP
- Susman Development Company
- SVI Management Corporation
- T-Bar Fence Co., Inc.
- .Lawrence E. Tabak, Inc.
- Taft Ford Property Mgmt->
- Tarpley Investments, LP
- Chuck Taylor
- Terra-Mar, Inc.
- Texas Birchwood Apartments, L.P.
- Paccar Leasing Company
- Texas Estrada Apartments, L. P.
- Texas Hampton LLC
- Texas Kinwood, L. P.
- Texas Melody Apartments, L. P.
- Than Than Investments, Ltd.
- Time Warner Cable
- Turtle Creek Development LP
- Tyson Management
- United Bank & Trust-Abilene
- Van-Texas Properties, L. P.
- Timothy & Nicole Wallace
- Westcott LLC
- The Windmark Group
- Windsor Management Company
- Zavala Properties, Inc.

The PROPERTY

TAXPAYERS' ADVOCATE

P.E. Pennington & Company, Inc.
16 Years of Providing Property Tax Solutions

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In This Issue...

2003 Legislative Update

Business Personal Property Renditions Mandatory in Texas

Page 2

Comments on SB 340 (Questions Raised)

Page 3

DID YOU KNOW?

- ◆ In the 78th Texas Legislative Session, 67 property tax related bills passed and the Governor vetoed only 2.
- ◆ In 2001, 68 property tax related bills were passed and 2 were later vetoed.
- ◆ In 1999, 64 property tax related bills were passed by the legislature.
- ◆ There will most likely be a special session in April of 2004. This session will deal with revamping school financing. This will of course translate into even more property tax related bills.

Every two years we dedicate our newsletter to legislative updates to keep you, the taxpayer, informed of new legislation that could affect your tax liability.

IMPORTANT UPCOMING TEXAS TAX DATES

NOTICE OF LITIGATION WITH APPRAISAL DISTRICTS:

FILING SUIT: Within 45 days of receipt of the ARB Order/Determining Protest

TAX RATES SET: Generally September-October

TAX BILLS MAILED: Generally October-November

JANUARY: Assessment Date January 1

JANUARY 31: Last day for payment of taxes:
• before they become delinquent
• for property subject to litigation
• for property subject to protest

JANUARY 31: Last day to file motion to correct an incorrect appraisal

APRIL 15: Rendition Due Date

TAX ROLL CERTIFICATION: ... Generally July-August

Is your firm receiving the most advantageous property tax valuation?

Is it time to consult a property tax professional?

P.E. Pennington & Co., Inc. is a regional firm with expertise in all types of Commercial Real Estate, Residential Real Estate, Personal Property, Intangible Value and out source compliance needs.

www.pennin.com

P.E. PENNINGTON & COMPANY, INC.
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Concerned About Your Property Taxes? ...Let's Talk or Visit www.pennin.com

10 - Percent Penalty for Failure to Render in 2004

2003 LEGISLATIVE UPDATES

**Highlights of the 2003 Legislative updates provided by Jason C. Marshall, Winstead Sechrest & Minick, Dallas, Texas.*

EFFECTIVE 9/1/03 – BUSINESS PERSONAL PROPERTY RENDITIONS MANDATORY IN TEXAS

*S.B. 340 – Property Taxes: does the following regarding rendition (reporting) of taxable, tangible business property:

1. requires that renditions of certain income-producing property have more detail than is required under current law with regard to the description of the property, location of the owner, location of the property, and value;
2. provides that owners of less than \$20,000 of tangible property must render only the name and address of the property owner and the location of the property;
3. provides that the rendition requirement is met if, on the request of the chief appraiser, the owner provides a copy of a federal or state commission regulatory report that adequately identifies the property;
4. authorizes the chief appraiser to request additional information showing how the owner's good faith estimate of the property's value was determined;
5. extends the deadline for rendition by fifteen days if requested by the owner;
6. prevents the appraiser from adding property to the 2001 or 2002 appraisal rolls as a result of compliance with the bill;
7. makes false statements on a rendition form punishable as a misdemeanor;
8. authorizes a 10-percent penalty of the amount of tax due for failure to timely render;
9. permits the chief appraiser to retain up to 20-percent of a rendition penalty to cover the appraiser's costs;
10. provides a 50-percent penalty of the amount of tax due for fraudulent reporting or destroying of relevant documents;
11. provides that rendition actions shall be initiated by the district or county attorney on behalf of the appraisal district;
12. permits the chief appraiser to waive penalties if the owner can show that due diligence was exercised in attempting to render; and
13. shifts the burden of proof to the property owner in some tax dispute proceedings if the owner has failed to render.

The bill also does the following with regard to property taxes generally:

1. provides that replacement of a structure because of mold or water damage does not constitute a new improvement for purposes of homestead value caps; and

2. requires that electronic versions of property tax forms be made available to property owners by the agency with which the forms are filed.

EFFECTIVE 9/1/03 – OVERLAPPING COUNTY ASSESSMENTS & FAIR AND EQUITABLE APPEALS

H.B. 1082 – Property Taxes: affects the appraisal of property in the following ways: (1) provides that property located in more than one appraisal district is to be appraised for all districts at the lowest value as determined by any of the chief appraisers; (2) permits appraisal districts to offer evidence of appraised value of properties in comparison to comparable properties, in addition to the use of appraisal ratios; (3) permits telecommunications providers to file consolidated appeals of appraisals of property located in more than one county in the district court of any county in which the property is located, similar to the appellate rights of oil, gas, and electric providers; (4) permits district courts to grant relief to property owners who show either that the appraised value of their property exceeds the appraised value of similar properties, or that the appraisal ratio is unequal, whichever is more beneficial to the property owner; and (5) establishes that for protests in district court, the value of the property under protest and the value of comparable properties is market value, rather than the value as adjusted by the homestead value increase caps.

OTHER BILLS:

H.B. 1223 – Property Taxes: limits to two years the maximum allowed absence from a residence homestead before a homestead exemption is lost. The two-year limitation would not apply to an absence caused by military service or residency in certain health or aging-related facilities. A homestead exemption can be lost before two years have elapsed, as under previous law, if the owner has no intention to return to the homestead.

H.B. 1278 – Property Taxes: expands the religious organization property tax exemption to include: (1) land owned by the religious organization and intended to be used to expand the place of worship; and (2) land owned by a religious organization and leased for use as a non-profit school. The bill also provides a five-year tax penalty if land receiving a new exemption for expansion of religious facilities is sold.

H.J.R. 16 – Property Taxes: proposes an amendment to the Texas Constitution which, if approved by the voters on September 13, 2003, will authorize a freeze on city, county, and junior college property taxes for the homesteads of disabled persons and persons over the age of 65, similar to the current freeze on school district taxes.

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Will Filing a Rendition Cause a Search for Omitted Business Personal Property?

COMMENTARY ON SB 340

*by the Law Firm of
Brusniak McCool & Blackwell, P.C.*

Questions Raised by SB 340

Should I file a rendition statement?

SB 340 creates a new business decision. Is my current appraised value low enough to justify incurring the 10 percent penalty for failing to timely file a rendition statement?

Could my failure to file a rendition statement be construed as fraud or to evidence an intent to evade tax?

In other words, is there any slippage between the penalty for failing to file or filing late and the penalty for fraud or evasion? There does not appear to be a direct connection between the two. However, the fraud or evasion penalty may be imposed in the course of any inspection, investigation, determination, or other proceeding before the appraisal district. At this point, it is too early to tell whether a property owner who files late or not at all might be liable for both levels of penalty.

What is a "good faith estimate?"

SB 340 provides no guidance as to what constitutes a good faith estimate of market value. A property owner who renders a good faith estimate should be prepared to provide the information called for in the supporting statement on receipt of written request from the chief appraiser.

How much grief can the appraisal district give me for filing a good faith estimate?

Based on past experience, one may conclude that appraisal districts will prefer to get the cost and acquisition year data rather than an owner's good faith estimate of market value. Thus, some form of retaliation against property owners who opt to render a good faith estimate seems likely. One might expect an appraisal district to automatically request additional data on receipt of a freeport application. Because SB 340 requires that an appraisal district hold its notices of appraised value until after the rendition filing deadline, a good faith estimate will likely draw a higher appraised value, as the appraisal district seeks to coerce additional information about the property.

Can the appraisal district use my 2004 rendition statement to pick up omitted property in prior years?

Yes. SB 340 does not prohibit a chief appraiser from using information in a 2004 rendition statement to create an omitted property account for 2002 or 2003. A property owner may, however, avoid that result by filing a tax year 2003 rendition statement before December 1, 2003.

This strange sort of amnesty provision takes effect on September 1, 2003. It permits a property owner to file a 2003 rendition statement before December 1, 2003. The statement must provide the information that will be required in rendition statements starting next year as a result of SB 340. When a property owner files a 2003 rendition statement before December 1, the chief appraiser may not use the statement to add omitted property for 2003 as a result of the late filing.

The amnesty provision raises yet another business decision, which must be made by November. A property owner whose property has not been appraised in prior years should consider carefully whether to file a late 2003 rendition between September 1 and November 30 in order to take advantage of the amnesty provision. Filing the 2003 rendition statement would result in tax against the property for 2003 and subsequent years. Waiting to file in 2004 may subject the property to tax as omitted property for 2002, 2003, and subsequent years.

While SB 340 provides some amnesty for prior non-filers, the statute does not speak to prior fraudulent rendition statements. If a property owner's 2003 rendition statement, filed to take advantage of the amnesty provision, leads the appraisal district to discover fraud in the owner's rendition statement for a prior year, SB 340 is not clear whether the amnesty provision applies. Cases have held that an appraisal district is not limited to a two-year omitted property period where prior renditions statements were fraudulent, so this is an area worthy of close scrutiny by your legal counsel.

Conclusion

This article only sketches out the broad outline of the new rendition legislation. Starting at the end of this year, we will begin accumulating data, not to mention war stories, about the real effect of SB 340. We will continue to use our newsletter and website to keep you up to date on the latest developments. While we hope this information is useful to you, this article is not a legal opinion based on any specific circumstances. For those questions, we suggest you seek legal counsel.

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