Hotel News Resource

A Proactive Strategy to Reduce Hotel Property Taxes - By Bernice Dowell

2006-05-31

Traditionally, managing hotel real estate taxes has been thought of and handled reactively. Owners wait to receive the jurisdiction's notice of value and then file an appeal, if necessary.

The resolution of many of these appeals comes after the owner has paid the taxes, so their money goes out the door early. If a refund arrives later, it contains no interest on the forgone money. Happily, opportunities exist to proactively manage real estate taxes, especially with a new acquisition.

The purchase of an operating hotel involves a very complex transaction. The terms of the purchase and sale agreement (PSA) are very detailed and specifically set forth the assets being purchased. Real estate is conveyed by a recorded deed, tangible personal property by bill of sale and intangible personal property is assigned to the new owners. Usually considerable language in the PSA relates to how employees, accounts receivable, working capital and ff&e reserves will be handled, whether or not specific tradenames are transferred and can be used in the ongoing hotel business operation, etc. Clearly the price paid for an operating hotel covers the purchase of all these asset classes.

Most jurisdictions impose a tax on the transfer of real estate. By law, owners must file, at or shortly after closing, their real property transfer tax return along with the transfer tax payment. At this point in time, the new owner needs to take advantage of the opportunity to become proactive in managing his future real estate tax obligations. Here's what it means to become proactive about property taxes.

Buyers typically negotiate the price they pay for a property based on their analysis of the going concern's value, i.e, the value of the business as an operating hotel. They determine an appropriate purchase price by using a discounted cash flow analysis of the expected income from the hotel's operations. Unfortunately, only in rare instances does a buyer breakdown the assets purchased and allocate to each asset class the portion of the purchase price related to that asset class.

Performing this type of analysis enables the buyer to confidently complete the transfer tax document showing the price paid for the real estate only. Additionally, because the tax assessor gets copies of this transfer tax form, he has a more accurate price on which to base future assessments for the hotel's real estate.

Purchase price allocations provide several key benefits:

1. Lower real estate transfer taxes

2. Support for bulk sales taxes, if applicable

3. Accelerated income tax depreciation for qualifying Sec. 197 intangibles - 15 year amortization instead of 39 year depreciation

4. Support for future real estate tax appeals, if necessary

Courts have typically recognized a sale price as the best indication of a property's value. Properly preparing the deal documents, up front, provides formidable evidence of the assets purchased for the price paid for the hotel. Such preparation puts in the assessor's hands a real estate transfer tax return that displays only the value of the real estate. Thus, the assessor can no longer point to a transfer tax return as a document supporting the full purchase price as the value of the real estate. After all, the law says that the only assets subject to real property taxes are land, buildings and improvements.

Buyers who conduct purchase price allocations prior to closing and use these allocations in rendering their transfer tax returns take a proactive approach to managing their real estate taxes.

Bernice Dowell is the National Director, Hotel Valuation, at the Austin, TX law firm of Popp, Gray & Hutcheson. The firm devotes its practice to the representation of taxpayers in property tax disputes and is the Texas member of the American Property Tax Counsel, the national affiliation of property tax attorneys. Bernice Dowell can be reached at Bernice@property-tax.com.

This article comes from Hotel News Resource
http://www.hotelnewsresource.com
The URL for this story is:
http://www.hotelnewsresource.com/article22444.html
© 1998 - 2007 Nevistas and the author.

Brought to you by Hotel News Resource
Distribute your news on our Network
See what all the buzz is about at:
http://www.hotelnewsresource.com/Info-news_account_info.html