

## Law: In tax, as in comedy, timing matters - by Douglas Atkins - NYREJ

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Kristine Wolf

As cleverly stated in a Federal appeals court tax case, “In tax, as in comedy, timing matters.” *Peracchi v. Commissioner*, 143 F.3d 487 (9th Cir. 1998)

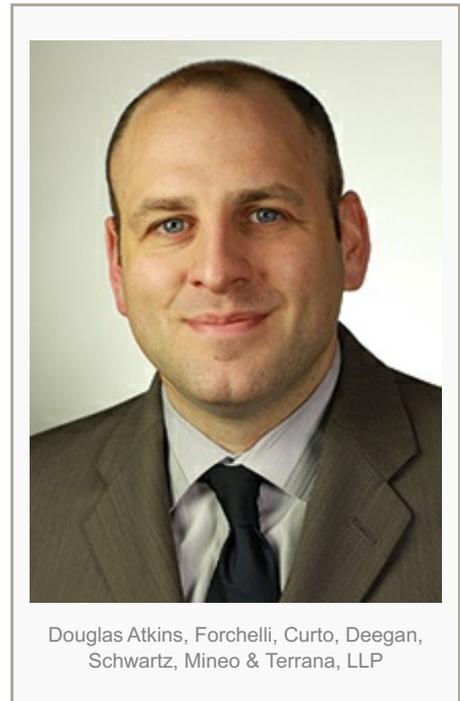
In this region, not many people are laughing about property taxes. Commercial real estate owner-occupants see property tax as a harsh drain on their business’s bottom line. Landlords find it a major impediment to attracting tenants, who in turn, find it difficult to pay rent on top of their proportionate tax share. But all owners, landlords and tenants should be aware of how timing affects their tax bill.

The first timing event to be aware of is the Tax Status Date, i.e. the day for which the tax assessor evaluates the physical status of the property. In much of the state, either January 1 or March 1 is the Tax Status Day. Take the January 1 example – the physical status of your property on that day will determine the next year’s tax bill. For example, if a restaurant property has a catastrophic fire on December 31, then the tax assessor must consider this when he assesses (values) the property. On the other hand, if that same catastrophic fire occurs just one week later on January 6, the assessor does not need to consider it at all.

A second timing issue to be aware of is the municipal fiscal period. Knowing these municipal fiscal periods is critically important in making tax adjustments at a closing or calculating base year taxes in a lease. Generally speaking, New York City, Nassau, Suffolk and Westchester all have separate fiscal periods. Further, within each County, there can be substantial differences. An extreme example is the city of Glen Cove where there are three separate tax bills (city, school & town) and each operates on a different fiscal period.

A final timing issue is determining the filing deadline to challenge your property tax assessment. Each assessing municipality is different, so there is no bright line rule to make. However, all commercial property taxpayers should consult with a tax certiorari attorney to be aware of their rights to a fair tax assessment and decide whether to pursue a commercial tax challenge.

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