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Let Me Tell You How It Will Be: Paying The Taxman

- The only consistent element about property taxes and airports is that nothing seems consistent.
- The most common policy on public airports is to apply real estate taxes to hangars and other improvements built by airside users on a long-term land lease.
- Most public entities do not pay real estate taxes.
- At least one state has a law which requires that real estate taxes be paid on leased airside land as though it were owned in Fee Simple.
- Privately owned public airports often are grossly over assessed. This results from the assessors relying on the depreciated "value" of big items such as runway and taxiways.
- Big hub airports will generate PILOTS - Payments in Lieu of Taxes - particularly if they are located in communities who do not run or sponsor the airport.

Although there are some generalizations that can apply to airport related real estate and property tax policies that apply to them, for every generalization there is an exception, and in some cases, more than one exception. Our experience and the response to our invitation for NOTAM readers to let us know about property tax policies which may apply to particular airport properties has yielded a number of interesting pieces of information.

The most basic consistency which can be found on public airports i.e. those owned by a municipality, city, port authority, etc., is that improvements built by a third party on leased land tends to be assessed and taxed. For instance, if a corporation leases three acres and builds a home for its corporate flight department, only the improvement tends to be assessed and the corporation is responsible for tax payments to the entity with powers of taxation. This also applies to fixed base operators, cargo facilities or any other property constructed and owned by these typical airport users.

Land is rarely assessed and taxed due to the fact that most public airports lease their land long-term for these types of structures. Most public entities do not pay taxes on structures which they may build and lease to an airport user. For instance, if a public sponsor builds structures such as T-hangars and leases them directly to aircraft owners, the buildings and land tend not to be taxed. There are exceptions to this situation, and it most often involves a scenario where the taxing entity is not necessarily the airport operator. For instance, many airports are operated by authorities, commissions or state agencies and are physically located in municipalities who have no control over the property. In some cases, airport authorities will pay property taxes to townships, boroughs or any other



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municipal organization which has taxing power over the airport within its geographic boundaries.

At least one state has a law which requires the lessee of an airside parcel of land to pay property taxes as though it were owned in Fee Simple. The law was enacted to "level the playing field" between the lessees of land and entities which owned the land outright. The intent was to apply this law to entities such as K-Mart and other commercial competitors in the general real estate marketplace. Typically, and it has had the most adverse affect on FBOs and other airside users due to the fact that airside property leases tend to be shorter than land leases which are applied elsewhere in the commercial/industrial and other relevant real estate marketplaces.

Possibly the most burdened element of the airport community are privately owned, public airports which are located in states which have no provisions to provide tax relief in this area. Many privately owned airports are assessed in a manner similar to other commercial and industrial property in the community. This can create tremendous tax burdens due to an assessor's estimation of the "value" which he attributes to large infrastructurally complicated, but non-revenue producing elements of the airport. This can relate to runways, taxiways and apron area.

As any small airport operator knows, these areas do not produce direct revenues and produce value to the airport owner only as a part of a larger collection of land and improvements used for aeronautical purposes. Some airport owners have recently begun to have some success in reducing their assessment by showing that the contributory economic value of these over-assessed elements is far below the actual value of the taxes paid upon them.

Some large hub facilities are completely exempted and are operated by airport authorities which are unrelated to the communities in which the airport is located. In these cases, the large airport operator often will remit an annual PILOT (Payment In Lieu Of Taxes) to the area in which the airport is located. This provides some compensation for the large amount of land and improvements which is removed from a taxing authority's tax rolls. Nevertheless, there is often friction between these large hub airports and the controlling airport authority due to the perception that no matter what the amount of the payment, somehow there is payment which that somehow the community is deprived of the "value" inherent in all aspects of the airport.