

## Focus | Probate, Trusts & Estates Law/Tax Law

# Nothing Rendered, Nothing Gained

BY MICHAEL MOORE

It is axiomatic that two things are certain: death and taxes. In Texas, taxes are certain to raise not only temples but also the cost of doing business. For Texas businesses, taxes are levied against real property and business personal property (BPP). Every year, over \$275 billion of BPP is taxed—almost 10 percent of the total taxable value of all property in the state. Despite being a potential source of tax savings for business owners, many fail to understand and utilize rendition strategies that will have a positive impact on their budgets.

The Texas Constitution authorizes the taxation of all tangible personal property used to produce income, unless it is exempted. The Texas Tax Code further defines tangible personal property as property that can be seen, weighed, measured, felt, or otherwise perceived by the senses—i.e., equipment, furni-

ture, computers, and inventory.

BPP is taxed based on its market value as of January 1 of each year. Renditions itemizing all BPP must be filed by April 1 of each year, although a 30-day extension may be requested. Failing to file results in penalties. Renditions typically include a fixed asset listing with the dates of purchase, cost of the property, depreciation of the property, and a good faith estimate of value.

BPP value is calculated using either the market value—the value the property would get on the open market through cash purchase or trade—or the book value—the value based on federal or district depreciation schedules. Most appraisal districts have their own depreciation tables which should be consulted when preparing a rendition.

Market value may be higher or lower than the book value, and it is important to consider both before filing a rendition. Computers are a prime example

of the difference in market value versus book value. A computer is typically depreciated on a five-year schedule. If a computer was purchased for \$1,000 and the owner was only able to sell it six months later for \$500, the market value would be half of the purchase price. Comparatively, using a 10 percent depreciation (six months of sixty months), the indicated value would be \$900. When rendering property, owners should consider how depreciation and the secondary market for used goods affect property value.

To ensure an accurate rendition, owners should verify that no ghost assets (assets that were disposed of but never taken off the books and included on prior renditions) are included in the rendition. Owners should also consider the impact of idle assets—those not being used but still capable of use; scrap assets—those no longer in use and not capable of use without significant work; and abandoned assets—those left to deteriorate and not capable of productive use. Identifying and accounting for assets no longer used to produce income can dramatically affect the taxable value of the BPP.

Business owners should also be aware of the nuances involved with inventories. Generally, inventory falls into four categories: raw materials, work-in-progress, finished goods, and supplies. Any rendition of inventory must consider issues such as obsolescence, markdowns, spoilage, breakage, theft, slow moving items, and outdated inventory. Likewise, the owner should consider cost components such as labor and shipping when determining the

fixed cost per unit of the completed product or class for rendition purposes.

Several exemptions may be applied to BPP. These include: the Freeport Exemption applies to inventory in the state for 175 days or less before being transported out of the state (except oil and gas); the Goods-in-Transit Exemption applies to inventory purchased, held at a public warehouse facility, and then transported to another location in or out of the state within 175 days of the purchase (with exceptions); and the Pollution Control Property Exemption is available for property that has received a positive use determination from the Texas Commission on Environmental Quality. Other exemptions may also be available.

Exemption applications are due between January 1 and April 1 of the tax year, depending on the exemption type, and require separate forms. It is important to remember that exempt assets must still be included on the rendition. If an exemption is granted, the exempt value will be deducted from the total value.

Rendering BPP is an onerous but necessary task that business owners must complete every year. Accurately reporting assets, appropriately determining asset values, and applying the proper exemptions can yield substantial benefits to a business. Understanding and utilizing these strategies ensures compliance with statutory requirements and that the owner is not taxed beyond what is appropriate. **HN**

Michael Moore is an attorney with Ryan Law Firm, PLLC. He can be reached at [michael.moore@ryanlawyers.com](mailto:michael.moore@ryanlawyers.com).

## End-of-Year Review of 2019 Ethics Opinions, Rules and Trends

Wednesday, December 4, Noon at Belo | Ethics 1.00  
RSVP [mmeija@dallasbar.org](mailto:mmeija@dallasbar.org)

Sponsored and presented by the DBA Legal Ethics Committee



### A Place to Gather

Located in the Dallas Arts District the Belo Mansion & Pavilion is the perfect venue to gather for luncheons, catered dinners, corporate meetings, holiday parties & more...

Plan your next event today!  
Call 214.220.0239



BELO MANSION & PAVILION

2101 ROSS AVENUE | DALLAS, TX  
[BELOMANSION.COM](http://BELOMANSION.COM)

## DVAP'S Finest



### MEGAN LADRIERE

Megan LaDriere is a Senior Associate at Baker Botts, L.L.P.

#### 1. How did you first get involved in pro bono?

My firm, Baker Botts, actively encourages young associates to get involved with pro bono activities early in their career. When I received the DVAP monthly emails on available cases, I took a simple divorce to get started! DVAP made it very easy and I felt supported so that I was able to successfully represent my client in a new area of law for me. I'm also on the DAYL Equal Access to Justice Committee, which plans and hosts an annual wine tasting each June to raise money for DVAP, as well as the DAYL Pro Bono Partners Committee that helps connect young lawyers with pro bono opportunities. Being able to get others involved in pro bono and support DVAP has been so rewarding!

#### 2. Describe your most compelling pro bono case.

It's hard to choose one—I've loved them all and learned something new every time. Mostly, I'm overwhelmed with the gratitude and appreciation from all my pro bono clients. They are all so thankful to have someone walk them through a process that they are unfamiliar with and often intimidated by.

#### 3. Why do you do pro bono?

The legal system is so difficult to navigate if you aren't a lawyer! It can be scary, confusing, and difficult, and I think helping others through that process is one of the best ways I can use my license to give back to the community.

#### 4. What impact has pro bono service had on your career?

It's made me so appreciative of the privilege it is to practice law. It can be a tough practice, but I'm filled with so much gratitude for my license and knowledge when I'm helping my pro bono clients who often have no idea where to even start. Learning other areas of law beyond patent law is always an adventure too—keeps me on my toes!

**Pro Bono: It's Like Billable Hours for Your Soul.**

To volunteer or make a donation, call 214/748-1234, x2243.

# DVAP

Dallas Volunteer Attorney Program