How Building Managers Can Prepare for San Francisco Gross Receipts Tax

By Kathy Mattes, Commercial Real Estate Consultant

In November 2012 the voters in San Francisco passed Proposition E, the "Gross Receipts Tax and Business Registration Fees Ordinance," which provides for a transition from the payroll tax system that has been in place for over ten years to a Gross Receipts Tax. This transition will phase in over a four-year period, resulting in the payment of both Payroll Tax and Gross Receipts Tax over that period of time. While intended to otherwise be revenue neutral, the Gross Receipts Tax (GRT) will also provide an additional $40 million or more annually to the Mayor's Housing Trust Fund, which will partially take the place of the now defunct Redevelopment Agency for supporting affordable housing in the City.

City staff spent a great deal of time speaking with those who will be impacted by this change in taxation, including with the Building Owners and Managers Association (BOMA) and other members of the commercial real estate sector. BOMA lobbied hard to reduce the impact of this change on our industry, and the final legislation reflects that hard work. In spite of that, commercial real estate will experience a significant increase in taxes paid, roughly calculated at more than five times the amount of taxes paid under the payroll tax plan. This is because real estate is gross receipts heavy, and payroll light compared to other industries, like technology, which is payroll heavy and gross receipts light.

Building managers are now preparing to implement this new tax. The first sign of this implementation will be the filing of the first quarterly Payroll/GRT payment due April 30, and then the Business Registration Fee due on May 31, 2014. The first annual filing for GRT will be due February 28, 2015, based on gross receipts in 2014. While the City will not issue specific guidelines on how this new tax will be calculated until 2014, there is enough information available to enable building managers to prepare.

The first step is to inform the property owner and make sure that they understand the legislation.

Information can be found at this link: http://sftreasurer.org/Modules/ShowDocument.aspx?documentid=535, which is a presentation prepared by the City in February and presented to the public, including a meeting organized by BOMA for its members.

Then take a look at your chart of accounts. Gross Receipts Tax will be paid on ALL gross receipts. The only deductions from gross receipts will be any "federal, state or local tax imposed upon a person for which that person is reimbursed by means of a separately stated charge." These deductions include parking taxes and property taxes, as well as gross receipts taxes that vendors will include on their invoices. Building managers are advised to make sure that their chart of accounts will include separate expense accounts for the payment of all taxes, including GRT paid to your vendors, and a separate income account that will enable the bill back of those taxes to tenants.

Expect commercial brokers to begin to bill separately for leasing commissions. In other words, the listing broker will bill directly for their portion of the commission and the procuring broker will bill directly for their portion. This prevents the listing broker from having to pay GRT on the procuring broker's portion of the total fee, which they simply pass on to the procuring broker, who will also include it in its gross receipts.

Consider how to handle tenant improvement allowances. If a landlord provides a tenant improvement allowance in a lease and the tenant is required to reimburse for all of a portion of those costs, that is a gross receipt to the Landlord. Perhaps the lease can be structured to provide for direct payment by the tenant to the contractor. If a tenant is allowed to apply any unused allowance to the payment of rent, that will probably be considered a gross receipt as well.

At the present time, under the Payroll Tax program, the payroll taxes being paid at your building are fairly invisible. The management company's payroll taxes are included in the payroll billings to the building. Your janitorial services company is including Payroll Tax in their cost per square foot. All of these charges are buried in larger billings and are not apparent. Under the new GRT program, the GRT will be a visible charge on invoices received from vendors and on the invoices sent to tenants by the building manager. As a result, the building manager must be well informed about this new legislation and the rules governing it so that the charges can be properly explained.

Mattes can be reached at Kamattes@sbcglobal.net