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When Rent is Not Rent?

"Paying attention to what rent includes can result in lower tax bills..."

By **Cris K. O'Neall** , as published by [Commercial Property Executive Blog](#), June 2010

Rental income has always been the touchstone for calculating real property values and is a key element in determining taxable value for ad valorem property taxes. Because it plays such a crucial role in the property tax valuation, paying attention to what rent includes can result in lower tax bills.

Rental income for properties such as multi-family residential is closely associated with real estate usage and is easily capitalized into an indication of taxable value. That is not the case, however, for properties used by service-oriented businesses, such as full-service hotels or stores in high-end retail malls. In those situations, the stream of income generated by the facility may represent both a return to the real property as well as to franchises, branding, or a trained and assembled workforce.

In most states, these non-realty rights and assets are not subject to property tax. If local tax assessors calculate assessments using income that includes a return on non-realty elements, the property owner will overpay property taxes.

Similarly, in those situations where landlords participate in their tenants' revenues through percentage rent, taxpayers should determine whether those rents represent a return solely to real property or if they also allow the landlord to share in profits that the tenant generates from customer services and branding. This situation frequently arises when private companies operate in government-owned facilities, such as public airports with privately run concessions.

So, what should investment property owners do? First, determine whether service-oriented businesses are operating in the property or whether percentage-rent arrangements are in effect. If either is the case, contact the local tax assessor and learn the basis for the property's tax valuation. If the assessed value is based on property income, the property tax may be based in part on non-taxable income. In that case, the property should receive a reduction in taxes.



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