



BOARD OF SUPERVISORS
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Department Name: Auditor-Controller
Department No.: 061
For Agenda Of: May 9, 2017
Placement: Administrative
Estimated Tme:
Continued Item: No
If Yes, date from:
Vote Required: 4/5

TO: Board of Supervisors

FROM: Department Theodore A. Fallati, CPA, CPFO
Director(s) Ext 2100
Contact Info: Trevor Lysek, CPA
Ext 2181

SUBJECT: Impoundment of Various Taxing Entities' 2016-17 Property Tax Revenue

County Counsel Concurrence

As to form: Yes

Other Concurrence: N/A

As to form: N/A

Auditor-Controller Concurrence

As to form: Yes

Recommended Actions:

That the Board of Supervisors:

- a. Approve and authorize the Auditor-Controller to impound \$5,957,288 of 2016-17 current year taxes from various entities' property tax revenues to mitigate potential losses from large assessment appeals filed by taxpayers (majority vote);
- b. Approve Budget Revision Request No 0005010 to establish appropriations of \$1,635,684 in multiple County funds and departments for an increase in nonspendable fund balance funded by property tax revenues that have been impounded due to assessment appeals filed by taxpayers (4/5ths vote);
- c. Approve Budget Revision Request No 0005017 to increase fund balance components of \$711,084 in multiple County funds and departments funded by release of nonspendable fund balance due to the resolution of multiple assessment appeals cases (4/5ths vote); and
- d. Determine that the decision to approve and authorize the impoundment is not a project under the California Environmental Quality Act (CEQA) pursuant to Section 15378(b)(4) of the CEQA Guidelines, because it is a government fiscal activity which does not involve any commitment to any specific project which may result in a potentially significant physical effect on the environment.

Summary Text:

California Government Code § 26906.1 authorizes the Auditor-Controller, with the approval of the Board of Supervisors, to impound disputed revenues of any tax upon secured or unsecured property levied and collected by the county for the county or any revenue district when a claim or action is filed for the return of the revenues. The significant Assessment Appeals cases described under the Background section below are being recommended for impounding of taxes. This action does not require the Board to conclude that refunds are reasonably likely in whole or in part.

The impounded tax revenues will be held in an interest bearing fund. The Auditor-Controller will continue to impound the revenues until the final disposition of the claim or action, or a refund of the tax is no longer anticipated. If, under final disposition, it is determined that the taxes were properly levied against the property, the Auditor-Controller will release the impounded taxes to the County or district.

In addition, several assessment appeals cases have been resolved. As required by California Government Code § 26906.1 the Auditor-Controller is releasing the related impounded property taxes.

By separate correspondence we will inform all impacted entities.

Background:

For the past several years the Board of Supervisors approved the impounding of property taxes for the significant Assessment Appeals cases. As these cases have not yet been settled and new significant Assessment Appeals cases have been filed it is again recommended that a portion of the property taxes in dispute be impounded for 2016-17 as following:

Oil and Energy

ERG Resources, LLC (ERG), a petroleum and gas company with operations in Cat Canyon. In 2015-16, ERG filed appeals on \$1,853,045 of disputed taxes, of which \$543,925 was impounded.

In 2016-17, escape assessments spanning six tax years (2010-11 through 2015-16) totaling \$7.3 million were billed to ERG. These escapes were appealed by ERG, and as requested, were put on a payment plan over 4 years as allowed by law. As taxes collected on payment plans are held in trust and are not distributed until the entire bill plus associated interest is collected, these disputed taxes are effectively impounded. Should resolution of the appeal take more than four years we will analyze at the time of final payment the need to impound those collected taxes prior to distribution.

In addition, during 2016-17, ERG filed appeals on \$725,266 of disputed current year taxes. We feel it would be prudent to continue with impounding 50% (\$362,633) of these taxes. ERG has filed for bankruptcy protection.

New for 2016-17, oil producers Exxon Corporation, Venoco and Freeport McMoran, have each filed appeals for 2016-17, which included current year and prior year escapes, disputing \$2,387,642, \$823,538, \$548,951 in taxes, respectively. Based on discussions with the County Assessor and County Counsel, we feel it would be prudent to impound 75% of the disputed amounts, \$1,790,731 for Exxon, \$617,654 for Venoco, and \$411,714 for Freeport McMoran. Venoco has filed for bankruptcy protection.

Aerospace

United Launch Alliance (ULA), a 50-50 joint venture between Lockheed Martin Corporation and The Boeing Company providing space launch services for the US Government and one of the county's largest taxpayers, has filed significant assessment appeals on its leased land, launch facilities and business property on Vandenberg Air Force Base. Appeals filed in 2011-12 and 2012-13 dispute regular and escaped assessments billed on the unsecured roll of which \$2,890,961 of those disputed taxes were previously impounded. In 2014-15, escape assessments spanning seven tax years (2007-08 through 2013-14) totaling \$33 million (\$24.6 million of taxes plus \$8.4 million of interest and penalties) were billed to, appealed by, and as requested by ULA were put on a payment plan over 4 years as allowed by law. As taxes collected on payment plans are held in trust and are not distributed until the entire bill plus associated interest is collected, these disputed taxes are effectively impounded. Should resolution of the appeal take more than four years we will analyze at the time of final payment the need to impound those collected taxes prior to distribution. In addition to the escapes for prior years, 2014-15 regular taxes of almost \$4.9 million were also billed and appealed of which \$2,245,100 was impounded. In 2015-16 ULA filed appeals on \$2,900,224 of disputed taxes.

Again for 2016-17, ULA has filed appeals on \$2,675,399 of disputed taxes. Based on discussions with the County Assessor and County Counsel, we feel it would be prudent to impound 50% (\$1,337,700) of the disputed amount.

Residences & Hotels

In 2015-16, Fairway BB Property, LLC, an oceanfront estate in Montecito and one of the county's largest taxpayers filed appeals on disputed taxes of \$1,027,544 for 2015-16 and prior years, of which \$513,772 were impounded. Again for 2016-17 Fairway BB Property, LLC filed appeals for 2016-17, in the amount of \$639,744. Based on discussions with the County Assessor and County Counsel, we feel it would be prudent to impound 50% (\$319,872).

New for this year, 1260 Property BB, LLC (Biltmore Hotel), has filed appeals for 2016-17 and prior years, disputing \$1,051,950 in taxes. Based on discussions with the County Assessor and County Counsel, we feel it would be prudent to impound 40% (\$420,780) of the disputed taxes.

Also, new for 2016-17, El Encanto, Inc., has filed appeals for 2016-17 and prior years, taxes in the amount of \$1,740,513. In 2014-15, El Encanto filed appeals disputing \$397,076 in taxes, and in 2015-16 disputing \$480,376 in taxes, but we did not feel it necessary to impound at that time. Based on discussions with the County Assessor and County Counsel, we feel it would be prudent to impound 40% (\$696,205) of the disputed 2016 taxes.

Fiscal and Facilities Impacts:

Budgeted: No.

The impounding of property taxes establishes accounts receivables for multiple departments and funds under the control of the County. Accordingly nonspendable fund balance must be increased to reflect these property tax accounts receivables. Budget Revision Request 0005010 funds this increase of nonspendable fund balance with the property tax revenues that have been impounded.

The release of impounded property taxes reduces the accounts receivables for multiple departments and funds under the control of the County. Accordingly nonspendable fund balance must be decreased to

reflect the reduction of property tax accounts receivables. Budget Revision Request 0005017 increases spendable fund balance components in these funds by the release of nonspendable fund balance.

Fiscal Analysis:

The schedule below delineates the current 2016-17 impacts to those funds under your board’s control. In addition, summary totals for other categories of taxing entities are included for reference.

Fund	Recommended New Impounds (Includes BJE #0005010)	Impound Releases (Includes BJE #0005017)
0001 - Santa Barbara County General	\$ 1,135,106	\$ 126,017
Dependent Special Districts (BJEs)		
2120 - CSA 3	6,967.00	-
2130 - CSA 4	300.00	-
2140 - CSA 5	889.00	-
2170 - CSA 11	364.00	1,101
2220 - CSA 31	501.00	-
2280 - SB County Fire Protection Dist	380,578.00	40,572
2400 - SB County Flood Cntrl/Wtr Cnsvr	17,243.00	1,825
2460 - Guadalupe Flood Zn 3	501.00	-
2470 - Lompoc City Flood Zn 2	2,481.00	-
2480 - Lompoc Valley Flood Zn 2	1,510.00	-
2500 - Los Alamos Flood Zn 1	485.00	-
2510 - Orcutt Flood Zn 3	2,370.00	10
2560 - Santa Maria Flood Zn 3	7,210.00	-
2570 - SM River Levee Flood Zn	701.00	-
2590 - Santa Ynez Flood Zn 1	2,495.00	-
2610 - South Coast Flood Zn 2	50,077.00	7,813
2670 - North County Lighting Dist	3,653.00	-
2700 - Mission Lighting Dist	60.00	-
3050 - Santa Barbara County Wtr Agency	22,193.00	2,349
Total Dependent Special Districts	500,578	53,670
Incorporated Cities	345,776	44,909
Independent Special Districts	294,001	63,932
School Districts	3,681,827	411,450
School Bonds	-	11,106
Totals	\$ 5,957,288	\$ 711,084

Attachments:

BRR/BJE 0005010
BRR/BJE 0005017

Authored by:

Trevor Lysek, Property Tax Division Chief