



**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: April 3, 2018
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' 2017-18 Property Tax Revenue and Release of Prior Years Impounded 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 \$3,411,307 of 2017-18 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 0005562 to establish appropriations of \$933,755 in multiple County funds and departments for an increase in nonspendable fund balance funded by property tax revenues impounded due to assessment appeals filed by taxpayers (4/5ths vote);
- c. Approve Budget Revision Request No 0005540 to increase fund balance components by \$1,405,265 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 and release 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 impoundment 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 2017-18 as follows:

Oil and Energy

ERG Resources, LLC (ERG), a petroleum and gas company with operations in Cat Canyon, in 2015-16, filed appeals on \$1,853,045 of disputed taxes, of which \$543,925 were 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. Also, during 2016-17, ERG filed appeals on \$725,266 of disputed taxes, of which \$362,633 were impounded. That year, ERG filed for bankruptcy protection.

Again for 2017-18, ERG has filed appeals on \$649,411 of disputed taxes. Based on discussions with the County Assessor and County Counsel and due to the size of the disputed amount, we feel it would be prudent to impound 50% (\$324,706) of the disputed amount.

Exxon Corporation, a petroleum and gas company with operations in Las Flores Canyon, filed appeals in 2016-17 on \$2,387,642 of disputed taxes, of which \$1,790,732 were impounded.

During 2017-18, Exxon again filed appeals disputing taxes of \$1,139,601. Based on discussions with the County Assessor and County Counsel, we feel it would be prudent to impound 75% (\$854,700) of the disputed amount for Exxon.

In 2016-17, **Venoco** and **Freeport McMoran**, petroleum and gas companies, filed assessment appeals disputing property taxes resulting in the impoundment of \$617,654 and \$411,714, respectively. In 2017-18, stipulations were approved for the Venoco appeals cases. Also, this year, Freeport McMoran withdrew their assessment appeals cases. Accordingly, we will be releasing the related impounds.

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 disputed taxes were impounded. In 2014-15, escape assessments spanning seven tax years (2007-08 through 2013-14) totaling approximately \$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 were effectively impounded. 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 were impounded. Again, in 2015-16 ULA filed appeals on \$2,900,224 of disputed taxes of which \$2,175,167 were impounded, and in 2016-17 ULA filed appeals on \$2,675,399 of disputed taxes, of which \$1,337,700 were impounded.

In 2017-18 stipulations were approved on the 2011-12 and 2012-13 appeals, as well as the 2014-15 escape appeals (for 2007-08 through 2013-14) for approximately \$33 million of disputed taxes that were placed on payment plans. Accordingly, impounds from 2012-13, in the amount of \$2,890,961, will be released. Since the taxes on payment plans were not impounded, there will be no related release of impounds. These amounts will be distributed through normal processes. The impounded taxes for 2014-15, 2015-16, and 2016-17, in the amounts of \$2,245,100, \$2,175,167, and \$1,337,700 respectively, remain impounded.

Finally, in 2017-18, ULA has again filed appeals on \$2,180,981 of disputed taxes. Based on discussions with the County Assessor and County Counsel and due to the size of the disputed amount, we feel it would be prudent to impound 50% (\$1,090,491) of the disputed amount.

Space Exploration Technologies Corporation (SpaceX) designs, manufactures and launches advanced rockets and spacecraft. SpaceX was founded in 2002 and has launch facilities at Vandenberg Air Force Base, as well as other locations. In 2015-16, SpaceX filed appeals on \$2,156,348 of disputed taxes, of which \$1,617,262 was impounded. In 2016-17, SpaceX filed appeals for 2016-17 and prior years, in the amount of \$440,039, and for 2017-18 of \$449,040. Based on discussions with the County Assessor and County Counsel, no taxes were impounded for 2016-17, nor will we be impounding for the current year.

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. During 2016-17, Fairway BB Property, LLC filed appeals in the amount of \$639,744, of which \$319,872 were impounded. Again for 2017-18 Fairway BB Property, LLC filed appeals for 2017-18, in the amount of \$756,095. Based on discussions with the County Assessor and County Counsel, we feel it would be prudent to impound 50% (\$378,047).

In 2016-17, **1260 Property BB, LLC** (Biltmore Hotel), filed appeals for 2016-17 and prior years, disputing \$1,051,950 in taxes, of which \$420,780 were impounded. Again for 2017-18, 1260 BB Property, LLC filed appeals for 2017-18, disputing \$1,018,649 in taxes. Based on discussions with the County Assessor and County Counsel, we feel it would be prudent to impound 50% (\$509,324) of the disputed taxes.

In 2014-15, **El Encanto, Inc.** 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. In 2016-17, El Encanto, Inc. filed appeals of taxes for 2016-17 and prior years, in the amount of \$1,740,513, of which \$696,205 were impounded. This year, El Encanto, Inc. has filed appeals for 2017-18 disputing taxes of \$508,077. Based on discussions with the County Assessor and County Counsel, we feel it would be prudent to impound 50% (\$254,038) of the disputed taxes.

Fiscal and Facilities Impacts:

Budgeted: No.

The impounding of property taxes establishes accounts receivable for multiple departments and funds under the control of the County. Accordingly, nonspendable fund balances must be increased to reflect these property tax accounts receivable. Budget Revision Request 0005562 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 receivable for multiple departments and funds under the control of the County. Accordingly nonspendable fund balances must be decreased to reflect the reduction of property tax accounts receivable. Budget Revision Request 0005540 increases spendable fund balance components in these funds by the release of nonspendable fund balances.

Fiscal Analysis:

The schedule below delineates the current 2017-18 impacts to those funds under your Board's control. In addition, summary totals for other categories of taxing entities are included for reference.

Assessment Appeals Impounds and Releases 2017-18

<u>Fund</u>	<u>Recommended New Impounds (Includes BJE #0005562)</u>	<u>Impound Releases (Includes BJE #0005540)</u>
0001 - Santa Barbara County General	\$ 642,799	\$ 884,036
Dependent Special Districts (BJEs)		
2120 - CSA 3	4,016	1,204
2130 - CSA 4	172	53
2140 - CSA 5	519	154
2170 - CSA 11	207	63
2220 - CSA 31	285	87
2280 - SB County Fire Protection Dist	222,180	479,079
2400 - SB County Flood Cntrl/Wtr Cnsrv	9,865	12,336
2460 - Guadalupe Flood Zn 3	295	87
2470 - Lompoc City Flood Zn 2	1,418	430
2480 - Lompoc Valley Flood Zn 2	870	262
2500 - Los Alamos Flood Zn 1	281	83
2510 - Orcutt Flood Zn 3	1,362	410
2560 - Santa Maria Flood Zn 3	4,210	1,245
2570 - SM River Levee Flood Zn	412	122
2590 - Santa Ynez Flood Zn 1	1,422	432
2610 - South Coast Flood Zn 2	28,597	8,653
2670 - North County Lighting Dist	2,110	631
2700 - Mission Lighting Dist	35	10
3050 - Santa Barbara County Wtr Agency	12,698	15,888
Total Dependent Special Districts	<u>290,954</u>	<u>521,229</u>
Incorporated Cities	200,273	59,747
Independent Special Districts	168,704	138,664
School Districts	2,108,577	2,316,653
Totals	<u><u>\$ 3,411,307</u></u>	<u><u>\$ 3,920,329</u></u>

Attachments:

Attachment A: BRR/BJE 0005562

Attachment B: BRR/BJE 0005540

Authored by:

Trevor Lysek, Property Tax Division Chief