

THE SAN DIEGO COUNTY TREASURER/TAX COLLECTOR TAX REFUND PROGRAM

SUMMARY

The 2005-2005 San Diego County Grand Jury reviewed the San Diego County Treasurer/Tax Collector's procedures for refunding overpaid property taxes. The review revealed that as of August 2005 the Treasurer/Tax Collector had over 11,000 authorized refunds, accumulated for the tax years 1996 through 2002, which have not been claimed by or returned to taxpayers. The total value of these refunds exceeded \$2.39 million. Additionally, the Treasurer/Tax Collector's office held \$6.2 million in overpaid property taxes for tax years 2003 through 2005 that are refundable. The State Revenue and Taxation Code¹ provides that unclaimed refunds may, after four years, be transferred to the County General Fund. The last transfer of eligible funds to the County General Fund was \$49,542.49 in February, 1998.

The Grand Jury's investigation revealed that the Treasurer/Tax Collector's department does not have adequate written policies and procedures for processing refunds. This problem was highlighted in an Internal County audit in 2003. The Grand Jury recommends that the Treasurer/Tax Collector complete the written policies and procedures for refunding overpaid property taxes.

The Grand Jury commends the Treasurer/Tax Collector's department for actions taken in response to the Grand Jury investigation. The Treasurer/Tax Collector subsequently issued refunds to taxpayers of approximately \$760,000 as of November 8, 2005. The Grand Jury anticipates that the Treasurer/Tax Collector will continue to show diligence by accelerating refunding of overpaid property taxes.

PURPOSE

The Grand Jury focused on the following issues:

1. Refund procedures used by County Treasurer/Tax Collector.
2. The most recent refunds distributed to taxpayers.
3. Minimum refund amount.
4. Procedures used to locate eligible taxpayers whose address of record may be invalid.
5. Tax bill format.

PROCEDURES

1. Interview the San Diego Assessor and staff.
2. Interview the San Diego Treasurer/Tax Collector and staff.

¹ Chapter 5, Article 1, Section 5102

3. Review the Treasurer/Tax Collector written responses to Grand Jury written questions.
4. Review the list of the pending property tax refund files from 1996 to 2005.
5. Review of the Treasurer/Tax Collector Internal Audit Report dated March 19, 2003.

DISCUSSION

During the Grand Jury's analysis of the current process for refunding overpaid property taxes, the Treasurer/Tax Collector's staff informed the Grand Jury that over 11,000 tax refunds from 1996 to 2002 had not been claimed or refunded. According to the Treasurer/Tax Collector staff a total of almost \$2.4 million had not been claimed or refunded to eligible taxpayers. In addition, the Grand Jury was apprised of \$6.2 million of eligible refunds accumulated from tax years 2003 to 2005. The Treasurer/Tax Collector stated that his office is working to develop written policies and procedures for processing property tax refunds.

The Treasurer/Tax Collector staff indicated that they process refunds over \$6.00, although the Revenue and Taxation Code² only requires refunds over \$10.00. Data were provided that indicates the number of refunds of less than \$10.00 is minimal. The Grand Jury questions the cost effectiveness of the present system.

The Treasurer/Tax Collector can recommend the transfer of property tax refunds to the County General Fund if unclaimed for 4 years. The funds may be transferred on order from the San Diego County Board of Supervisors pursuant to the Revenue and Taxation Code³. The last transfer of unclaimed property tax refunds to the County General Fund was 1998 in the amount of \$49,542.49.

The Treasurer/Tax Collector's department currently sends refunds pursuant to the Revenue and Taxation Code. The Treasurer/Tax Collector's office utilizes the property tax database, the Department of Motor Vehicles, telephone directories and internet searches to find taxpayer addresses. The Grand Jury recommends that the Treasurer/Tax Collector consider utilizing periodic newspaper notices to alert the taxpayers of potential refunds.

In the course of the Grand Jury investigation it became apparent that a contributing factor to undistributed refunds was the complexity and lack of clarity of the current Supplemental Property Tax Bill. Taxpayers may not recognize that they are eligible for a refund because the current supplemental tax bill document does not highlight in unique type style, size, or color, the fact that a refund is due.

The Grand Jury determined that the interest rate on overpaid property tax funds held in trust earn approximately 2.82%. The Grand Jury also determined that a taxpayer may be

² Chapter 5, Article 1, Section 5102

³ Chapter 5, Article 1, Section 5102

eligible for interest on their overpaid property taxes when the taxpayer makes application for refund within 30 days, otherwise the interest reverts to the County.

FACTS/FINDINGS

1. Refund Procedures

Fact: The Treasurer/Tax Collector's department does not have adequate written policies and procedures for refunding overpaid property taxes. The March 19, 2003 Internal Audit Report, prepared by the County Auditor & Controller's Office, identified issues with the tax refund procedures:

- *The Treasurer/Tax Collector's department does not have adequate operating policies and procedures to govern the refund process.*
- *The Treasurer/Tax Collector's department relies heavily on labor intensive procedures to verify current addresses.*
- *The Treasurer/Tax Collector's department procedures lack adequate tracking tools to ensure that refunds are processed in a timely and accurate manner in order to provide optimal service to taxpayers and comply with legal mandates.*

Findings: The Treasurer/Tax Collector's department was informed 2½ years ago that they lacked adequate procedures for returning overpaid property taxes to taxpayers. The Treasurer/Tax Collector stated that his staff is preparing, but has not completed, written procedures for the Tax Refund Program.

2. Refunds to Taxpayers

Fact: The Treasurer/Tax Collector's department provided the Grand Jury with lists of unclaimed tax refunds for the tax years from 1996 to 2005.

As of August 2005, the Treasurer/Tax Collector's department held \$2.39 million in overpaid property taxes for tax years 1996 through 2002. These monies should have been refunded to taxpayers.

1996	\$ 147,631.86
1997	\$ 287,054.79
1998	\$ 361,038.98
1999	\$ 509,904.14
2000	\$ 309,193.08
2001	\$ 297,380.70
2002	<u>\$ 480,616.09</u>
	\$2,392,819.64

As of August 2005, the Treasurer/Tax Collector's department held \$6.2 million in overpaid property taxes for tax years 2003 through 2005. These monies are available and should be refunded to taxpayers.

2003	\$ 592,361.04
2004	\$ 59,127.29
2005	<u>\$5,544,988.15</u>
	\$6,196,476.48

As of August 2005, the total of overpaid property taxes dating from 1996 through 2005 was \$8,589,296.12. These monies are available for refund to the taxpayers.

Finding: The current Treasurer/Tax Collector has been in office since November 2002. As of August 2005, there was a backlog of over 11,000 refunds that remain unclaimed for tax years 1996 through 2002. The Treasurer/Tax Collector's department should have been more diligent in responding to the 2003 Internal Audit that identified significant deficiencies in the refund process. The Grand Jury agrees that the Treasurer/Tax Collector's department is now aggressively pursuing the refunding of payment to the taxpayers for the years 1996 through 2002. If refunds are not claimed for the tax years 1996 through 2002 by June 30, 2006, the remaining funds may escheat to the County General Fund by order of the San Diego County Board of Supervisors.

3. Minimum Refund

Fact: The California Revenue and Taxation Code⁴ states:

When the amount of taxes paid exceeds the amount due by more than ten dollars (\$10), the tax collector shall send notice of the overpayment to the taxpayer.

The Treasurer/Tax Collector's department has elected to refund overpayments that exceed six dollars.

Finding: The current policy of processing refunds that exceed six dollars adds unnecessary expense to the administrative cost of making refunds.

4. Supplemental Tax Bill

Fact: The 2004 Supplemental Tax Bill sample reviewed by the Grand Jury includes a section titled "Refund Pending". In another space, the overpayment amount is stated as a negative dollar amount.

Findings: The format of the Supplemental Tax Bill is not easily understood and may be confusing to many people. A distinctive method is not used to indicate to the taxpayer that they are entitled to a refund.

⁴ Part 5, Chapter 2, Section 2653

RECOMMENDATIONS

The Grand Jury recommends that the San Diego County Treasurer/Tax Collector:

- 06-01: Expedite the completion of written policies and procedures for processing refunds.**
- 06-02: Issue refunds for all tax years prior to 2001 as soon as is practicable.**
- 06-03: Evaluate the cost savings to the Treasurer/Tax Collector's office if the minimum refund amount is increased from \$6.00 to \$10.00 as authorized by the Revenue and Taxation Code.**
- 06-04: Revise the Supplemental Tax Bill format to highlight the taxpayer's eligibility and amount of the refund.**

COMMENDATION

The Grand Jury commends the Treasurer/Tax Collector's department for his response to the Grand Jury investigation. The Treasurer/Tax Collector subsequently issued refunds to taxpayers of approximately \$760,000 as of November 8, 2005. The Grand Jury anticipates that the Treasurer/Tax Collector will continue to show diligence in refunding overpaid Property Taxes.

REQUIREMENTS AND INSTRUCTIONS

The California Penal Code §933(c) requires any public agency which the Grand Jury has reviewed, and about which it has issued a final report, to comment to the Presiding Judge of the Superior Court on the findings and recommendations pertaining to matters under the control of the agency. Such comment shall be made *no later than 90 days* after the Grand Jury publishes its report (filed with the Clerk of the Court); except that in the case of a report containing findings and recommendations pertaining to a department or agency headed by an elected County official (e.g. District Attorney, Sheriff, etc.), such comment shall be *within 60 days* to the Presiding Judge with an information copy sent to the Board of Supervisors.

Furthermore, California Penal Code §933.05(a), (b), (c), details, as follows, the manner in which such comment(s) are to be made:

- (a) As to each grand jury finding, the responding person or entity shall indicate one of the following:
 - (1) The respondent agrees with the finding
 - (2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.
- (b) As to each grand jury recommendation, the responding person or entity shall report one of the following actions:

- (1) The recommendation has been implemented, with a summary regarding the implemented action.
 - (2) The recommendation has not yet been implemented, but will be implemented in the future, with a time frame for implementation.
 - (3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a time frame for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This time frame shall not exceed six months from the date of publication of the grand jury report.
 - (4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.
- (c) If a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the Board of Supervisors shall respond if requested by the grand jury, but the response of the Board of Supervisors shall address only those budgetary or personnel matters over which it has some decision making authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department.

Comments to the Presiding Judge of the Superior Court in compliance with the Penal Code §933.05 are required by the date indicated from:

<u>RESPONDING AGENCY</u>	<u>RECOMMENDATIONS</u>	<u>DATE</u>
San Diego County Treasurer/Tax Collector	06-01 through 06-04	01/16/06



TREASURER-TAX COLLECTOR

DAN McALLISTER
TREASURER-TAX COLLECTOR

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SAN DIEGO, CALIFORNIA 92101-2475 • (619) 531-5225 FAX (619) 595-4605

website: <http://www.sdtreestax.com>

RECEIVED

JAN 17 AM. 7

January 12, 2005

VIA HAND DELIVERY

Honorable Janis Sammartino
Presiding Judge
Superior Court of California
County of San Diego
220 West Broadway, Dept. P
San Diego, CA 92101

Re: San Diego County Treasurer-Tax Collector's Response to Grand Jury Report

Dear Judge Sammartino,

Pursuant to California Penal Code Section 933.05, this letter is the response of the San Diego County Treasurer-Tax Collector to the November 16, 2005 Grand Jury Report entitled "The San Diego County Treasurer/Tax Collector Tax Refund Program."

The Treasurer-Tax Collector has worked cooperatively and has communicated openly with the Grand Jury throughout its investigation and will continue to provide information to the Grand Jury on the progress of the Grand Jury recommendations contained within the November 16, 2005 report.

TREASURER-TAX COLLECTOR RESPONSES TO GRAND JURY FINDINGS:

1. Refund Procedures

Findings: The Treasurer/Tax Collector's department was informed 2½ years ago that they lacked adequate procedures for returning overpaid property taxes to taxpayers. The Treasurer/Tax Collector stated that his staff is preparing, but has not completed, written procedures for the Tax Refund Program.

Response: The Treasurer-Tax Collector agrees with the Findings and provides the following additional information: In December 2005, the Treasurer-Tax Collector completed and implemented formal written policies and procedures for (1) Tax Refunds for Overpayment and (2) Escheatment Process. These policies and procedures were completed with the assistance of an outside independent auditing firm who conducted a comprehensive review of the refund and escheatment processes within the Treasurer-Tax Collector's department. Copies of the policies and procedures are attached.

2. Refunds to Taxpayers

Findings: The current Treasurer/Tax Collector has been in office since November 2002. As of August 2005, there was a backlog of over 11,000 refunds that remain unclaimed for tax years 1996 through 2002. The Treasurer/Tax Collector's department should have been more diligent in responding to the 2003 Internal Audit that identified significant deficiencies in the refund process. The Grand Jury agrees that the Treasurer/Tax Collector's department is now aggressively pursuing the refunding of payment to the taxpayers for the years 1996 through 2002. If refunds are not claimed for the tax years 1996 through 2002 by June 30, 2006, the remaining funds may escheat to the County General Fund by order of the San Diego County Board of Supervisors.

Response: The Treasurer-Tax Collector agrees with the Findings and provides the following additional information:

- The current Treasurer-Tax Collector has been in office since December 2, 2002, not November 2002.
- In response to the 2003 Internal Audit, the Treasurer-Tax Collector addressed some of the deficiencies in the refund process by making the following changes:
 - *Refund Request Time Reduced* – In 2003, changes were made to the automated refund system which reduced the refund check request cycle from two weeks to one week.
 - *Exception Process Streamlined* – In 2003, the Treasurer-Tax Collector initiated a redesign of the exception process, and completed the redesign in November 2005. This enhancement enables staff to reconcile exception payments electronically without hard copies of rejected checks, and has reduced processing time.
 - *Interest Calculation Worksheets Updates* – The Treasurer-Tax Collector updates its interest calculation worksheet annually to ensure compliance with California Revenue & Taxation Code Sections 5150.5, 5151, 5152 and 5153.
 - *Duplicate Payments Minimized* – In 2005, the Treasurer-Tax Collector implemented a system that allows mortgage companies to submit electronic payment files and send property tax payments via electronic funds transfer (EFT) or fedwire. This process has significantly reduced the need for manual reconciliation, and duplicate payment refunds are generated in less than half the time previously required.

In addition, since August 2005, the Treasurer-Tax Collector has refunded \$1.381 million for overpayments made in tax years 1996 through 2002, with a remaining balance of \$1.012 million. The Treasurer-Tax Collector continues to issue refunds on a 2-week cycle and will continue to work diligently to process all outstanding refunds.

3. Minimum Refund

Finding: The current policy of processing refunds that exceed six dollars adds unnecessary expense to the administrative cost of making refunds.

Response: The Treasurer-Tax Collector agrees with the Findings. The Treasurer-Tax Collector has determined that increasing the minimum refund from \$6.00 to the statutorily allowed amount of \$10.00 will reduce the number of refunds to be processed and the related

administrative expenses. The new policy became effective on January 1, 2006.

4. Supplemental Tax Bill

Findings: The format of the Supplemental Tax Bill is not easily understood and may be confusing to many people. A distinctive method is not used to indicate to the taxpayer that they are entitled to a refund.

Response: The Treasurer-Tax Collector agrees with the Findings. The Treasurer-Tax Collector has redesigned the Supplemental Tax Bill to conform to the format established with the annual secured property tax bill. In order to reduce confusion, the information on the back of the bill and on the insert explains that a negative supplemental bill means that the taxpayer is receiving a refund which is included in the mailing. Copies of the new Supplemental Tax Bill and insert are enclosed.

TREASURER-TAX COLLECTOR RESPONSES TO GRAND JURY RECOMMENDATIONS:

Recommendation

06-01: Expedite the completion of written policies and procedures for processing refunds.

Response: The recommendation has been implemented. In December 2005, the Treasurer-Tax Collector completed and implemented formal written policies and procedures for:

- Tax Refunds for Overpayment
- Escheatment Process

The Treasurer-Tax Collector will continue to update all department policies and procedures.

Recommendation

06-02: Issue refunds for all tax years prior to 2001 as soon as is practicable.

Response: The recommendation has been implemented. Since August 2005, the Treasurer-Tax Collector has refunded \$1.381 million for overpayments made in tax years 1996 through 2002, with a remaining balance of \$1.012 million. The Treasurer-Tax Collector continues to issue refunds on a 2-week cycle and will continue to work diligently to process all outstanding refunds.

Recommendation

06-03: Evaluate the cost savings to the Treasurer/Tax Collector's office if the minimum refund amount is increased from \$6.00 to \$10.00 as authorized by the California Revenue and Taxation Code.

Response: The recommendation has been implemented. The Treasurer-Tax Collector initiated a change in its property tax system to increase the minimum refund amount from \$6.00 to \$10.00 effective January 1, 2006.

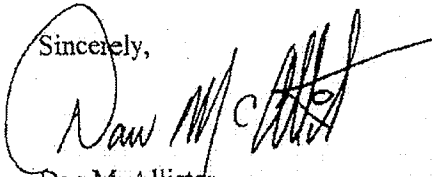
Recommendation

06-04: Revise the Supplemental Tax Bill format to highlight the taxpayer's eligibility and amount of the refund.

Response: The recommendation has been implemented. The Treasurer-Tax Collector has redesigned the Supplemental Tax Bill to conform to the format established with the annual secured property tax bill. The information on the back of the bill and on the insert explains that a negative supplemental bill means that the taxpayer is receiving a refund which is included in the mailing.

If there are any questions regarding this response, please feel free to contact me at (619) 531-5225.

Sincerely,

A handwritten signature in black ink, appearing to read "Dan McAllister", written over a circular stamp or mark.

Dan McAllister
San Diego County Treasurer-Tax Collector

Enclosures