CACTTC 2021 Legislative Platform

The 2021 CACTTC Legislative Platform
Approved October 7, 2021

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The Approved 2021 Platform includes four proposals:

1) Tax Collectors to waive penalties and interest on late property tax payments should a public health order be instituted by the Governor or County official that directs the public to shelter at home.
2) Aligns sections of code that conflict regarding penalties if a taxpayer did not receive a tax bill due to an error by the Tax Collector, providing for consistency across multiple statutes.
3) Updates to the financial reporting requirements in the statute to reflect that due to technological advances, financial reporting can be produced daily if desired; the language calls for at least monthly reporting but allows flexibility in that regard; it also removes decades-old language from the statute that establishes penalties for failure to provide the reports.

Proposal #1 – Monterey County

Property Tax Payment Deadlines Under a Shelter at Home Order

1. PLEASE PROVIDE A BRIEF DESCRIPTION OF THE PROBLEM AND THE PROPOSED SOLUTION:

Tax Collectors are unable to cancel penalty on late remittances, based on economic hardship alone, as a result of the COVID-19 pandemic. The immediate solution was to seek an executive order by the Governor to allow economic hardship penalty waivers. Since this order is of limited duration, it would be in the best interest of the taxpayers of the State of California to have this type of relief codified in statute should this, or another, pandemic continue after the expiration of the order.

2. WHAT IS THE SPECIFIC RECOMMENDED STATUTORY CHANGE YOU ARE PROPOSING? Change to R&T 4985.2

Any penalty, costs, or other charges resulting from tax delinquency may be canceled by the Auditor or the Tax Collector upon a finding of any of the following:
(a) Failure to make a timely payment is due to reasonable cause and circumstances beyond the taxpayer's control, and occurred notwithstanding the exercise of ordinary care in the absence of willful neglect, provided the principal payment for the proper amount of the tax due is made no later than June 30 of the fourth fiscal year following the fiscal year in which the tax became delinquent.
(b) There was an inadvertent error in the amount of payment made by the taxpayer, provided the principal payment for the proper amount of the tax due is made within 10 days after the notice of shortage is mailed by the Tax Collector.
(c) The cancellation was ordered by a local, state, or federal court.
(d) Notwithstanding subdivisions (a-c), that the failure to make a timely payment is due to a compulsory order issued by the governor of the state or the local health officer of the city, county, or city and county in which the property is located, or in which the property owner resides and is enforceable under section 101029 or 120295 of the Health and Safety Code and orders all persons to remain in their place of residence, except for essential activities as defined in the order, and the principal payment for the proper amount of tax due is made no later than June 30 of the fiscal year in which the payment first became delinquent.

3. WHAT IS THE GENERAL EXPLANATION FOR WHAT THESE CHANGES WILL DO (IN LAYMAN'S TERMS?)

This will allow the Tax Collector the discretion to waive penalty on delinquent property tax payments specifically due to economic hardship or other unavoidable circumstances directly resulting from a health and safety order as outlined above.

4. HOW MANY COUNTIES HAVE BEEN IMPACTED BY THIS PROBLEM? WHICH COUNTIES?

All 58 counties have been and will continue to be impacted by the inability to waive penalty in this circumstance absent the executive order.

5. HAS YOUR COUNTY BEEN HARMED FINANCIALLY BY THE CURRENT LAW? IF SO, HOW MUCH AND BY WHOM? PLEASE INCLUDE SPECIFIC EXAMPLES.

All taxpayers in the state who had to pay penalties on delinquent tax payments during this pandemic have been harmed. The addition, adding this provision to the code section, will prevent this problem in the future.

6. WHICH STATE AGENCIES WOULD BE IMPACTED IF THE LAW WERE TO CHANGE? None

7. IS THIS PROPOSAL LIKELY TO ENGENDER OPPOSITION FROM ANYONE? WHO? WHY?

No. This provides needed relief to taxpayers and gives authority to Tax Collectors to cancel penalty in specific situations, including economic hardship, as a result of a pandemic or other situation that falls under the Health and Safety Code.

8. HAS THIS BILL BEEN TRIED BEFORE?
Not to my knowledge. This is our first pandemic in 102 years.

9. WHAT ARE THREE REASONS WHY A LEGISLATOR SHOULD CARRY THIS BILL? (HOW DOES IT MAKE THE LAW BETTER / MORE JUST /MORE EFFICIENT FOR COUNTIES AND TAXPAYERS?)

Again, this creates much-needed relief where none currently exists. It allows Tax Collector's discretion to cancel penalties under specific situations during a pandemic.

Proposal #2 –Merced County

Taxpayer Did Not Receive a Tax Bill

1. PLEASE PROVIDE A BRIEF DESCRIPTION OF THE PROBLEM AND THE PROPOSED SOLUTION:

The two statements below in RTC § 2910.1 are contradictory. We cannot state that a taxpayer is responsible for the timely payment of taxes regardless of receipt of the tax bill in one sentence and state that penalties may be waived if the tax bill was not received in the next sentence.

Revenue and Taxation Code (RTC) § 2910.1 states "Failure to receive a tax bill shall not relieve the lien of taxes, nor shall it prevent imposition of penalties imposed by this code. However, the penalty imposed for delinquent taxes as provided by any section in this code shall be canceled if the assessee convinces the tax collector that he or she *did not receive the tax bill mailed to the address provided* on the roll or electronic address provided and authorized by the taxpayer to the tax collector."

A better way to state this is demonstrated in RTC § 2610.5. Instead of saying the property owner must prove *they did not receive* a bill, it should read that the property owner must prove *we did not mail* it to the address as provided on the tax roll. As an example, if the County failed to enter the correct mailing address as shown on the recorded deed, the County would indeed remove the penalty.

RTC § 2610.5 states "However, the penalty imposed for delinquent taxes as provided by any section of this code shall be canceled if the assessee or fee owner demonstrates to the tax collector that delinquency *is due to the tax collector's failure to mail or electronically transmit* the tax bill to the address provided on the tax roll or electronic address provided and authorized by the taxpayer to the tax collector."

This alignment of language in RTC § 2910.1 does not diminish the Tax Collector's ability to cancel penalties in case of county error (RTC § 4985,) when a payment is lost in the mail or when failure to pay is due to circumstances beyond the taxpayer's control (RTC § 4985.2.)

2. WHAT IS THE SPECIFIC RECOMMENDED STATUTORY CHANGE YOU ARE PROPOSING?

REVENUE AND TAXATION CODE

2910.1 The tax collector may, no later than 30 days prior to the date on which taxes are delinquent and as soon as reasonably possible after receipt of the extended assessment roll, mail or electronically transmit a tax bill for every assessment on the unsecured roll on which taxes are due, unless the total tax bill amount due is too small to justify the cost of collection. Failure to receive a tax bill shall not relieve the lien of taxes, nor shall it prevent the imposition of penalties imposed by this code. However, the penalty imposed for delinquent taxes as provided by any section in this code shall be canceled if the assessee ~~convinces the tax collector that he or she did not receive the tax bill mailed to the address provided on~~ <u>*demonstrates to the tax collector that delinquency is due to the tax collector's failure to mail or electronically transmit the tax bill to the address provided on*</u> the <u>*tax*</u> roll or electronic address provided and authorized by the taxpayer to the tax collector.

3. WHAT IS THE GENERAL EXPLANATION FOR WHAT THESE CHANGES WILL DO (IN LAYMAN'S TERMS?)

These changes will bring consistency to the language between RTC § 2910.1 and RTC § 2610.5 as well as within RTC § 2910.1 as a whole.

4. HOW MANY COUNTIES HAVE BEEN IMPACTED BY THIS PROBLEM? WHICH COUNTIES? Please include specific examples from each county as to what has been problematic and how this proposal would solve the problem.

Every year, a number of taxpayers blame their tax payment delinquency on not receiving a bill and request that penalties be removed. Every year, California County Tax Collectors deny taxpayers' requests citing, "Failure to receive a tax bill shall not relieve the lien of taxes, nor shall it prevent the imposition of penalties imposed by this code." If a taxpayer were to read the next sentence under RTC § 2910.1, they would most certainly argue that they did not receive the bill. While the burden of proof still lies with the taxpayer, it is the Tax Collector's position that the failure to receive a tax bill is not an acceptable reason to waive penalties.

5. HAS YOUR COUNTY BEEN HARMED FINANCIALLY BY THE CURRENT LAW? IF SO, HOW MUCH AND BY WHOM? PLEASE INCLUDE SPECIFIC EXAMPLES.

None.

6. WHICH STATE AGENCIES WOULD BE IMPACTED IF THE LAW WERE TO CHANGE?

None.

7. IS THIS PROPOSAL LIKELY TO ENGENDER OPPOSITION FROM ANYONE? WHO? WHY?

None.

8. HAS THIS BILL BEEN TRIED BEFORE?

Unknown.

9. WHAT ARE THREE REASONS WHY A LEGISLATOR SHOULD CARRY THIS BILL? (HOW DOES IT MAKE THE LAW BETTER / MORE JUST /MORE EFFICIENT FOR COUNTIES AND TAXPAYERS?)

This change will make the language in Revenue and Taxation Code § 2910.1 consistent with the language in Revenue and Taxation Code § 2610.5.

Proposal #3 –Madera County

Monthly Financial Reporting

1. PLEASE PROVIDE A BRIEF DESCRIPTION OF THE PROBLEM AND THE PROPOSED SOLUTION:

Current Government Code Section (GC) 27061, 27062, and 27064 enacted in 1947 - 1953 pertaining to the delivery of monthly settlements relating to the collection, care, and disbursement of public revenue are outdated in relation to the most current practices with new technologies being deployed in the Treasurer-Tax Collectors offices. These codes were enacted in 1947-1953 before the modern age usage of computers and automated accounting software systems that integrate reconciliation processes between the Treasurer and Auditor.

The purpose of these codes has been superseded with the use of modern technology systems/software where there is no longer the need to wait until the end of the month because discrepancies or fraudulent items are identified in real-time. Moreover, current systems and software allow for daily settlement and reconciliation of accounts within or between departments without the use of these codes and the required statement from these codes. Whereas, where combined offices of the Tax Collector and Auditor-Controller exist, it serves no value in reporting to self.

Furthermore, the proposed solution is to remove GC 27062 and 27064 and update the language for GC 27061 to align with the most current and future technological work environment.

2. WHAT IS THE SPECIFIC RECOMMENDED STATUTORY CHANGE YOU ARE PROPOSING?

To remove Government Code Section 27062 and 27064 and update the language for Government Code Section 27061 to read as follow:

Recommended Language:

27061. ~~Not later than the tenth of each month.~~ The treasurer shall settle *their* ~~his~~ accounts relating to the collection, care, and disbursement of public revenue in any form ~~whatsoever nature and kind~~ with the Auditor *frequently but no less than monthly*. The treasurer shall provide a monthly settlement of cash receipts and disbursements to the Auditor upon request within ten business days following the first business day of the month.

GOVERNMENT CODE - GOV

ARTICLE 2. Statements and Reports [27061 - 27064]
(Article 2 added by Stats. 1947, Ch. 424.)

~~27062.~~ ~~For the purpose of making his settlement, the treasurer shall make a statement under oath of the amount of money or other property received prior to the period of the settlement, the amount of payments or disbursements, and the amount remaining on hand. In the settlements he shall deposit and take the Auditor's receipt for all warrants redeemed by him.~~ *~~(Amended by Stats. 1953, Ch. 687.)~~*

~~27064.~~ ~~If the treasurer neglects or refuses to settle or report as required by this article, he shall forfeit and pay to the county five hundred dollars ($500) for each neglect or refusal, and the board of supervisors shall institute suits for the recovery thereof.~~ *~~(Added by Stats. 1947, Ch. 424.)~~*

3. WHAT IS THE GENERAL EXPLANATION FOR WHAT THESE CHANGES WILL DO (IN LAYMAN'S TERMS?)

The proposed changes would align with the current and ever-changing technological advances. The availability of modern systems and software solutions in the Tax Collector and Auditor/Controller's office automatically generates reports and settlements in real-time where discrepancies or fraudulent actions can be identified and corrected on the same day by means of the various county automated accounting systems. Whereas, in counties where the Tax Collector offices are combined and systems or software is shared, the use of technology instantly integrates with the Auditor/Controller's system making the certification to self unnecessary.

Additionally, new social changes have taken place since the codes were enacted in 1947-1953. The language in the codes is inconsistent with the current gender-neutral environment we live in, i.e., "In the settlements, ***he*** shall deposit and take the auditor's receipt for all warrants redeemed by ***him***." Moreover, confusion surrounds the section of codes requiring that the statement be made under oath, what report(s) it should include, where the statement should be posted, and who to file the statement to.

4. HOW MANY COUNTIES HAVE BEEN IMPACTED BY THIS PROBLEM? WHICH COUNTIES? Please include specific examples from each county as to what has been problematic and how this proposal would solve the problem.

There appears to be an inconsistent application of the code(s) with regards to the interpretation of the code(s) across the state. Below are the results of 17 respondents from a recent CACTTC survey initiated by Madera County:

Do you file a statement each month with the Board or Auditor?	
• Files with the Board	6
• Completes a monthly statement but does not file with anyone	8
• Files with Auditor Controller	1
• Files with Clerk Recorder	1
• Files with General Accounting	1
	17

Some counties are completing reconciliation of accounts daily, and in other counties, the Auditor's office produces monthly reports, which includes the disbursements of expenses and receipts of revenue for each account. In addition, the use of modern systems/software makes this code redundant where every county in the state have moved towards daily electronic reconciliations with the Auditor's office.

Moreover, there are also multiple interpretations as to who to file the statement to each month as demonstrated in the survey results from 17 counties throughout the state.

Additionally, where offices of the Auditor-Controller/Treasurer-Tax Collector are combined in one office, have found that there is no need to formally certify the statement to themselves.

5. HAS YOUR COUNTY BEEN HARMED FINANCIALLY BY THE CURRENT LAW? IF SO, HOW MUCH AND BY WHOM? PLEASE INCLUDE SPECIFIC EXAMPLES.

No. Only in additional work with limited resources.

6. WHICH STATE AGENCIES WOULD BE IMPACTED IF THE LAW WERE TO CHANGE?

Unknown.

7. IS THIS PROPOSAL LIKELY TO ENGENDER OPPOSITION FROM ANYONE? WHO? WHY?

This is not likely to receive any opposition.

8. HAS THIS BILL BEEN TRIED BEFORE?

No.

9. WHAT ARE THREE REASONS WHY A LEGISLATOR SHOULD CARRY THIS BILL? (HOW DOES IT MAKE THE LAW BETTER / MORE JUST /MORE EFFICIENT FOR COUNTIES AND TAXPAYERS?)

1) To eliminate duplicate effort, work, and reports from the County Treasurers.
2) Removes government codes that have been superseded by modern software and automated accounting systems.
3) Purges government code that is gendered.