

COUNTY OF SAN MATEO

INTERDEPARTMENTAL CORRESPONDENCE

To: Honorable Board of Supervisors
From: County Counsel
Subject: Delegation of Authority to Controller to Grant Claims for the Refund, Correction and Cancellation of Property Taxes and Documentary Transfer Taxes under Certain Conditions
Date: April 6, 2001

Recommendation

Adopt a Resolution authorizing the Controller to approve qualifying claims for the refund, correction or cancellation of property taxes and for the refund of documentary transfer taxes if the amount does not exceed \$10,000, and with the written approval of the County Counsel if the amount is between \$10,000 and \$50,000

Discussion

1 Refunds, Corrections and Cancellation of Property Taxes

Division 1, Part 9 of the Revenue and Taxation Code authorizes the Board of Supervisors to approve the refund, correction or cancellation of property taxes on certain grounds stated in that part This includes, but is not limited to, the refund of property taxes under Revenue and Taxation Code section 5096 when taxes are paid more than once, erroneously or illegally collected, or illegally assessed or levied Section 4804 of the Revenue and Taxation Code permits the Board of Supervisors, by resolution, to delegate its authority under Division 1, Part 9 to any other county official on specified terms and conditions The Board of Supervisors previously adopted a resolution which delegates authority to the Controller to approve the refund, correction or cancellation of property taxes if the amount does not exceed \$10,000 The Controller may also approve the refund, correction or cancellation of property taxes between \$10,000 and \$15,000, subject to the approval of the County Counsel Any refund, correction or cancellation of ad valorem property taxes above \$15,000 requires Board approval

The Assessor-County Clerk-Recorder, in consultation with the Controller and Treasurer/Tax-Collector, recommends that the Board of Supervisors increase the limit for the Controller's authority to approve refunds, corrections and cancellations of ad valorem property taxes, subject to written approval by the County Counsel, to \$50,000 The majority of refunds, corrections or cancellations do not exceed \$50,000 in taxes and have been necessary to correct clerical errors or the lack of timely filing of claims for exemption or exclusions Eliminating the requirement to

Honorable Board of Supervisors

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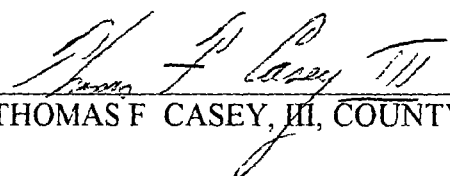
April 5, 2001

obtain Board of Supervisor approval on claims that total between \$15,000 and \$50,000 would allow the Controller to effect these changes to the tax roll more expeditiously Taxpayers would receive their refunds, corrected bills or cancelled charges in a more judicious manner Claims exceeding \$50,000 will still require approval by the Board of Supervisors

2 Refunds of Documentary Transfer Taxes

Section 11911 of the Revenue and Taxation Code authorizes a Board of Supervisors of a county and the legislative body of any city within the county to impose by ordinance a documentary transfer tax on any instrument, such as a deed, by which real property within the jurisdiction of the city or county is conveyed Like the situation involving property taxes, section 5096 of the Revenue and Taxation Code authorizes the refund of documentary transfer taxes upon properly verified claim establishing that were paid more than once, were erroneously or illegally collected, or were illegally assessed or levied Section 4804 of the Revenue and Taxation Code permits the Board to delegate its authority to grant claims for refund of documentary transfer taxes to another County official At this point, the Board has not delegated authority to a County official to approve the refund of documentary transfer taxes All refund claims must be approved by the Board regardless of the amount involved The Board currently receives only a few such claims each year In the past, claims have been based either on mathematical miscalculations or double payments, matters which the Controller can easily verify

We recommend that the Board establish a documentary transfer tax refund process similar to that provided for property taxes and delegate authority to the Controller to approve claims for refunds of documentary transfer taxes under the same limits provided for property taxes This will make the refund process consistent for both types of taxes


THOMAS F. CASEY, III, COUNTY COUNSEL

cc John L. Maltbie, County Manager
Warren Slocum, Assessor-County Clerk-Recorder
Tom Huening, Controller
Lee Buffington, Tax Collector-Treasurer

RESOLUTION NO _____

BOARD OF SUPERVISORS, COUNTY OF SAN MATEO, STATE OF CALIFORNIA

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RESOLUTION

RESOLVED, by the Board of Supervisors of the County of San Mateo, State of California, that

WHEREAS, Division 1, Part 9 of the Revenue and Taxation Code provides that the Board of Supervisors may approve claims for the refund, cancellation or correction of property taxes under specified conditions, and this includes, but is not limited to, the circumstances listed in Revenue and Taxation Code section 5096 for the refund of taxes when taxes have been paid more than once, erroneously or illegally collected, or illegally assessed or levied, and

WHEREAS, section 4804 of the Revenue and Taxation Code permits the Board of Supervisors, by resolution, to delegate its authority to a county official to perform any act required or authorized by Division 1, Part 9, of the Revenue and Taxation Code, including the authority to grant refunds, corrections and cancellation of property taxes, and

WHEREAS, the Board previously adopted a resolution authorizing the Controller to approve refunds, corrections and cancellations of property taxes under specified conditions if the amount does not exceed \$10,000, and with the written approval of the County Counsel if the amount is between \$10,000 and \$15,000, and

WHEREAS, the majority of refunds, corrections or cancellations do not exceed \$50,000 in taxes, and eliminating the requirement to obtain Board of Supervisors' approval on claims less than \$50,000 would allow the Controller to effect these changes to the roll more expeditiously and taxpayers would receive their refunds, corrected bills or cancelled charges in a more judicious

manner, and

WHEREAS, a proposal has therefore been presented to this Board to increase the authority to the Controller to approve claims, with the written approval of the County Counsel, to \$50,000 for various reasons, and

WHEREAS, section 11911 of the Revenue and Taxation Code permits the Board of Supervisors of a county and the legislative body of any city within a county to impose by ordinance a specified tax on any deed, instrument, or writing by which real property within the jurisdiction of the city or county is conveyed, and

WHEREAS, claims for refunds of documentary transfer taxes imposed pursuant to section 11911 are governed by section 5096 of the Revenue and Taxation Code, which is described above, and as in the case of property taxes, the Board may delegate this function to a county officer pursuant to section 4804 of the Revenue and Taxation Code, and

WHEREAS, the Board currently receives only a few claims for refund of documentary taxes each year, and the claims have been based either on mathematical miscalculations or double payments, matters which the Controller can easily verify, and

WHEREAS, the Board finds that it will be conducive to the efficiency of the documentary transfer tax refund process to authorize the Controller to review and, with the written approval of the County Counsel in certain circumstances, grant claims for the refund of documentary transfer taxes that meets the criteria established by section 5096, consistent with the process established for property tax refunds

NOW, THEREFORE, IT IS HEREBY DETERMINED AND ORDERED that the County Controller is authorized to review and grant claims that meet the required criteria in section of Division One, Part 9 of the Revenue and Taxation Code for the refund, correction or

cancellation of ad valorem property taxes and for the refund of documentary transfer taxes if the amount does not to exceed \$10,000, and with the written approval of the County Counsel, if the amount is between \$10,000 and \$50,000 The Controller shall record all refunds less than \$50,000 made pursuant to this authorization and file with this Board annually a report of the refunds granted

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