





DRAFT
April 3, 2020

The Honorable Gavin Newsom
Governor, State of California
State Capitol
Sacramento, CA 95814

Subject: Request Executive Order Partially Suspending Revenue and Taxation Code Sections 2618 and 4103

Dear Governor Newsom:

Thank you for your leadership in response to the COVID-19 pandemic, including your March 12 executive order allowing the California Department of Tax and Fee Administration and the Franchise Tax Board to extend tax payment deadlines.

Your executive orders extending those deadlines will allow individuals to focus on paying immediate, necessary expenses during these uncertain times. Your action also gives businesses a better chance to maintain positive cash-flow at a time when operations have been reduced dramatically, making it possible for businesses to keep idle employees on payroll and continue paying bills.

On April 10, property owners throughout California will be required to remit payment for the second installment of locally assessed property taxes. Failure to pay the second installment by that date results in a 10% penalty (Revenue and Taxation Code section 2618) and if those taxes remain unpaid by June 30, an additional penalty of 1.5% *per month* attaches (Revenue and Taxation Code section 4103). Counties have limited discretion to waive delinquency penalties under section 4985.2, for “reasonable cause and circumstances beyond the taxpayer’s control, and occurred notwithstanding the exercise of ordinary care in the absence of willful neglect.” Moreover, that local waiver can be given only if full payment is made by June 30.

Therein lies the problem that requires your action. There have been conflicting media reports about whether local Treasurer-Tax Collectors may grant waivers under Revenue and Taxation Code section 4985.2 for *economic reasons* or only for reasons *directly related* to COVID-19 -- such as the taxpayer being hospitalized or otherwise directly incapacitated with the disease. Many counties are interpreting existing law to forbid them from allowing a penalty waiver if the taxpayer needed the tax payment to meet payroll, or to pay rent or provide for their family or other economic reasons. This means in the best case, relief will be inconsistently granted across the state, and at worst, available to almost no one.

Additionally, when businesses are trying to avoid furloughs and layoffs, the administrative burden of applying for waivers can be extremely onerous. Businesses with multiple parcels in more than one county may be required to file a penalty waiver request for each parcel number – resulting in thousands of requests that county employees will have to process and evaluate. None of this will be done by April 10, and taxpayers who choose to defer payment will do so with no certainty of the status of their request for waiver until it is too late to do something about it before the 10% penalty attaches.

During a State of Emergency, Government Code Section 8571 authorizes the governor to suspend a statute, and we urge you to exercise your authority to partially suspend Revenue and Taxation Code sections 2618 and 4103 to allow payment of the second installment of property taxes by July 15, the extension date you already granted for income tax filing and payment.

We are not unaware that property taxes are primarily a local revenue source, and we are sensitive to the needs of local government at this extraordinary time. For that reason, we do not believe the suspension need apply to payments of property taxes by third-party holders of “impound accounts.”

When considering the balance between the needs of the taxpayers and the needs of local government, we ask you to consider the following:

- Taxes on all business personal property already have been fully paid;
- The first installment (50%) of property taxes on the secured roll was paid in December. Some taxpayers paid their entire property tax at that time for income tax reasons;
- About 57% of homeowners use impound accounts, and local government would receive that money as well.

Given that the counties have received or will receive the vast majority of property tax revenue under our requested partial suspension, a 90-day delay in receiving the remaining tax is a reasonable share of the burden for local government to bear when balanced against the daily fight to survive that taxpayers are facing.

Suspension of these sections for all 58 counties will allow taxpayers time to focus on staying afloat in the days and weeks ahead as we all fight COVID-19 through social distancing and keeping business doors closed.

We thank you for considering this request and for your continued work on behalf of Californians during this historic health crisis. Taxpayers appreciate your candor and transparent daily updates, and the many steps that you and your administration have taken to protect the health of all Californians and minimize the impact of COVID-19.

Sincerely,

Robert Gutierrez
CalTax President and Chief Executive Officer

Also on behalf of:

California Taxpayers Association
A Cut Above Construction, Pools &
Landscape, Inc.
Advanced Medical Technology Association
American Property Casualty Insurance
Association
Bay Area Council
Building Owners and Managers Association
of California
California Apartment Association
California Association of Boutique &
Breakfast Inns
California Attractions and Parks Association
California Bankers Association
California Business Roundtable
California Business Properties Association
California Cattlemen's Association
California Chamber of Commerce
California Fuels & Convenience Alliance
California Hotel & Lodging Association
California Independent Petroleum
Association
California Lodging Industry Association
California Manufacturers & Technology
Association
California Mortgage Bankers Association
California Retailers Association
California Rental Housing Association
California Restaurant Association
California Trucking Association
Coalition of Sensible Taxpayers
Greater Irvine Chamber of Commerce
Greater Riverside Chambers of Commerce

Greater San Fernando Valley Chamber of
Commerce
Hotel Association of Los Angeles
Humboldt and Mendocino Redwood
Companies
International Council of Shopping Centers
Kern County Taxpayer Association
Long Beach Hospitality Alliance
Mike Naggar and Associates Inc.
Murrieta/Wildomar Chamber of Commerce
Nareit
NAIOP of California, the Commercial Real
Estate Development Association
North Bay Leadership Council
North Orange County Chamber
Official Police Garages Associations of Los
Angeles
Orange County Business Council
Oxnard Chamber of Commerce
Property Owners Association of Riverside
County
San Gabriel Valley Economic Partnership
Santa Rosa Metro Chamber
Silicon Valley Leadership Group
Southern California Rental Housing
Association
Southwest California Legislative Council
Southwest Riverside County Association of
Realtors
Spidell Publishing, Inc.
The Silicon Valley Organization
Valley Industry & Commerce Association

cc: Ann O'Leary, Chief of Staff Office of Governor Gavin Newsom
Ana Matosantos, Cabinet Secretary Office of Governor Gavin Newsom
Anthony Williams, Office of Governor Gavin Newsom
The Honorable Betty Yee, State Controller
The Honorable Antonio Vazquez, Chair, Board of Equalization
The Honorable Mike Schaefer, Vice Chair, Board of Equalization
The Honorable Malia M. Cohen, Board of Equalization
The Honorable Ted Gaines, Board of Equalization
Keely Bosler, Director, Department of Finance