

DEPARTMENT: Board of Supervisors
PHONE: 966-3222

BY: Arthur G. Baggett, Jr.

RECOMMENDED ACTION AND JUSTIFICATION: (Policy Item: Yes___ No_x)

Resolution of request for refund of property tax penalty and interest to John and Shirley Campbell

BACKGROUND AND HISTORY OF BOARD ACTIONS:

A request has been received for a refund of a 10% property tax penalty plus interest due to a property tax payment which was placed in good faith at the counter of the Tax Collector's office and inadvertently picked up by another tax payer. The Tax Collector has no problem refunding the penalty but sent the matter to the interest payment to County Counsel for review. County Counsel has reviewed the statutes and finds no specific statute relative to the issue and feels the Board of Supervisors has the authority to pay interest on a refund or not as they deem appropriate.

LIST ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

1. Approve the refund with interest.
2. Approve the refund without interest.
3. Do not approve the refund.

COSTS: () Not Applicable

A. Budgeted current FY \$ _____

B. Total anticipated costs \$ 74.19 +

C. Required Add'l funding \$ interest

D. Source: Property Tax

SPECIAL INSTRUCTIONS:
List the attachments and number the pages consecutively:

1. Request for refund from John and Shirley Campbell
2. Memo from Tax Collector
3. Memo from County Counsel

SOURCE: () 4/5ths Vote Required

A. Internal transfers \$ _____

B. Unanticipated revenues \$ _____

C. Reserve for contingency \$ _____

D. Description: _____

Balance in Reserve for Contingencies, if approved: \$ _____

CLERK'S USE ONLY:

Res. No.: 91-273

Ord. No.: _____

Vote - Ayes: 3 Noes: 1

Absent: None Abstained: _____

(X) Approved () Denied

(X) Minute Order Attached

ADMINISTRATIVE OFFICER'S RECOMMENDATION:

This item on agenda as:

X Recommended

Not Recommended

For Policy Determination

Submitted with Comment

Returned for Further Action

The foregoing instrument is a correct copy of the original on file in this office.

Date: _____

ATTEST: MARGIE WILLIAMS
Clerk of the Board of Supervisors
County of Mariposa, State of CA

By: _____
Deputy

Comment: _____

A.O. Initials: [Signature]

MARIPOSA COUNTY BOARD OF SUPERVISORS

MINUTE ORDER

TO: DON PHILLIPS, TREASURER/TAX COLLECTOR
FROM: MARGIE WILLIAMS, CLERK OF THE BOARD *MW*
RE: REFUND OF PROPERTY TAX PENALTY, CAMPBELL,
APPLICANT

THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA

ADOPTED THIS Order on June 18, 1991

ACTION AND VOTE:

9:20 a.m. Resolution of Request for Refund of Property Tax
Penalty and Interest to John and Shirley Campbell (Baggett)
BOARD ACTION: John Campbell provided input. (M)Baggett,
(S)Erickson, to approve refund of \$74.10, plus interest, was
amended agreeable with maker and second, to approve refund
of \$74.10/penalty only - Ayes: Baggett, Erickson,
Radanovich; Noes: Taber; Excused: Punte. Res. 91-273

cc: Evelyn Billings, Auditor
File

OFFICE OF



JEFFREY G. GREEN
County Counsel
(209) 966-3625

County Courthouse
P. O. Box 189
Mariposa, CA 95338

The County Counsel
MARIPOSA COUNTY

April 29, 1991

To: Don Phillips, Treasurer-Tax Collector
From: Jeffrey G. Green, County Counsel
Re: John E. and Shirley R. Campbell
APN 009-150-003-0

Dear Don:

Thank you for a copy of your letter dated April 26, 1991 to Arthur Baggett regarding the above matter. I have reviewed the statutes and can find no specific statute which would require the payment of interest on a refund. While there is no specific statute on point relative to this issue, I believe that the Board of Supervisors would have the general authority, should they so desire, to pay interest on a refund if they felt it was appropriate.

Should you have any questions regarding this matter, please feel to contact me.

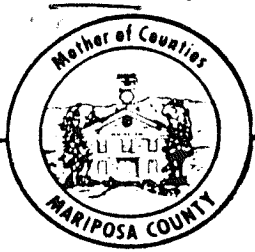
Very truly yours,

A handwritten signature in black ink, appearing to read "Jeff", written over a faint, larger version of the signature.

Jeffrey G. Green
County Counsel

cb

cc: Arthur G. Baggett, Jr., Supervisor



County of Mariposa

Office of Treasurer-Tax Collector

File

Telephone:

Tax Collector (209) 966-2621

Treasurer (209) 966-2830

April 26, 1991

Don Z. Phillips
Treasurer-Tax Collector
Hall of Records
P.O. Box 36
Mariposa, CA 95338

Arthur G. Baggett, Jr.
County Courthouse
P.O. Box 784
Mariposa, CA 95338

Re: John E. & Shirley R. Campbell, APN: 009-150-003-0

Dear Supervisor Baggett:

I am in receipt of the request for refund and interest on the above referenced parcel.

Prior to this going to the Board with my recommendation, I would like to have County Counsel review it.

I don't have a problem recommending the refund of penalties at this point. I believe an attempt was made to make the payment on time, although there are conflicting statements and circumstances regarding the time of payment, and to whom the payment was handed to.

Payroll records show that Mrs. Wyly was not at work on the 6th, 7th, and 10th of December, whom they identified as the employee they gave the payment to on December 7, 1990. Also, Ernie Anderson's payment was made on December 10.

I feel sure that the payment was brought into the office. It is our assumption that perhaps the payment was laid on the counter while an employee was helping Mr. Anderson, and when Mr. Anderson picked up his receipts, he mistakenly picked up the one laid there by Mrs. Campbell.

As far as refunding with interest, I do not find anything that would allow such a refund, and would therefore like an opinion from County Counsel to base my recommendation to the Board on.

As soon as County Counsel and I can meet and discuss this proposal, and he has rendered his opinion, I will forward it to the Board for action.

Sincerely,

Don Z. Phillips, County
Tax Collector

cc: John E. Campbell, Applicant
Jeffrey G. Green, County Counsel

RECEIVED
APR 25 1991
DON Z. PHILLIPS
TREASURER - TAX COLLECTOR

April 22, 1991

Arthur G. Baggett, Jr.
Supervisor, District 1
Mariposa County Board of Supervisors
P.O. Box 784
Mariposa, CA 95338

RE: Parcel number 009-15-0-003-0
Property tax payment for December 1990

Dear Art,

Enclosed is the correspondence pertaining to our claim to have the 10% penalty refunded.

Since that time, new information has surfaced.

On Sunday afternoon, April 7, 1991, Ernie Anderson from Bear Valley called our house and informed us that he had found our check and stubs for the December 1990 payment of property taxes for this parcel.

These items had obviously been shuffled together with his when he was at the tax collectors office paying his taxes.

We met Ernie at the tax collectors office on Monday, April 8, 1991 at 11:30 AM and he handed us these papers with Mary Wyly as witness.

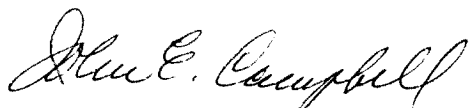
In subsequent conversation with Don Phillips, I have asked for refund of the \$74.10 penalty plus 10% interest (as per IRS) from January 8, 1991, the date we made the second payment with penalty, until the date that the refund check is issued.

Art, someone in the tax collectors office is "stonewalling" this matter. Mary Wyly is telling Don Phillips that we put the check and stubs on the counter loose which allowed them to become mingled with someone elses.

This is not true. Shirley handed the check and stubs to Mary Wyly in a sealed envelope and, in my opinion, it was then the tax collectors responsibility.

Please see what you can do for us toward approving a refund with interest

Sincerely,



John E. Campbell
P.O. Box 369
Midpines, CA 95345



Shirley R. Campbell