

**BOARD OF EDUCATION
BEEVILLE INDEPENDENT SCHOOL DISTRICT**

Agenda Item No. _____

Date: October 17, 2006

Subject: 2006 Tax Statements Mailing-
Discounts

Submitted by: Linda O'Connell

Related Pages: 2

Supt's Approval: _____

ACTION

BACKGROUND INFORMATION:

Andrea Gibbud, Bee County Tax Assessor-Collector, is requesting the BISD Board of Trustees take action on the adoption of Section 31.05c of the Texas Property Tax Code to allow for the use of the 3% discount for taxpayers in November, the 2% discount in December and the 1% discount in January. The request is conditional depending on the date of mailing for tax statements, only in the event that the tax statements are not mailed on or before October 20, 2006.

ITEMS ADDRESSED:

2006 Tax Statements Mailing-Discounts

Note: February 1st is the delinquent date set by law and can not be changed.

RECOMMENDED ACTION:

Maintain status quo regarding discount schedule for taxpayers

BUDGETARY INFORMATION:

The least the district will lose is \$74,000 for a 1% discount.

ANDREA W. GIBBUD, RTA

BEE COUNTY - TAX ASSESSOR-COLLECTOR - VOTER REGISTRAR

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October 10, 2006

John Hardwick
Superintendent of Schools
2400 N St Mary's St
Beeville, TX 78102



RE: 2006 Tax Statements Mailing - Discounts

Dear Dr. Hardwick:

I am today requesting that the Commissioners' Court authorize at its next meeting the adoption of Section 31.05c of the Texas Property Tax Code to allow for the use of the 3% discount for taxpayers in November, the 2% discount in December and the 1% discount in January. The request is conditional depending on the date of mailing for the tax statements, I am requesting the application of the action, only in the event that the tax statements are not in the mail on or before October 20th.

It is necessary for me to make this request at this time in order to be prepared for the printing of the statements. I ask that the Beeville Independent School District Board of Trustees take the same action at their next meeting.

A copy of the referenced section of the Tax Code is attached for your use and information. Unfortunately this request is necessary because the software vendor we use for tax collections has been unable, to date, to provide me with an acceptable proof of the Bee County consolidated tax statement, nor have they been able to provide me with a report and tax roll that will balance back to the Chief Appraiser's certified values from July of 2006. I will continue to work to see that the statements get out on or before October 20th, but given the lack of progress thus far I am not hopeful.

The Board's action will allow the taxpayers the discounts for timely payment upon receipt of their tax statement, otherwise the 3% discount may be lost to most taxpayers.

Sincerely,

Andrea W. Gibbud, RTA

Tax Assessor-Collector for Bee County

however, if the taxpayer produces competent evidence to justify a finding against the presumed fact. Tax notices must be addressed according to the most recent records in the possession of the taxing unit; if no address exists for a taxpayer, statutory notice requirements do not apply. In this case, evidence was sufficient to support the trial court's finding that the school district did not deliver notice, thereby canceling penalties and interest for certain tax years. However, the owner did not overcome the presumption of delivery regarding other taxing units for certain years and therefore cancellation of the penalties and interest was not mandated. The case was remanded for trial court determination of the amounts of penalties, interest, attorney fees, court costs and other fees to be assessed. *Aldine Independent School District, et al. v. Ogg*, 122 S.W.3d 257 (Tex. App.—Houston [1st Dist.], 2003, no pet.).

The statutory requirement of Section 26.15(d) of preparing and mailing a corrected tax bill did not include postponing the delinquency date in Section 31.04(a), and the corrected tax bill did not void the original tax bill. *Richardson Independent School District v. GE Capital Corporation*, 58 S.W.3d 290 (Tex. App.—Dallas 2001, no pet.).

Construction of Section 33.07 that allows the penalty to be imposed against taxes delinquent on or after July 1 is contrary to the legislative will expressed by the plain language of Section 33.07 and ignores the rule that a statute imposing penalties must be strictly construed. A notice of delinquency must be sent no later than June 1 (30 days before July 1) to meet the 30-day notice requirement. Section 33.07 additional penalty may not be imposed against taxes that become delinquent on or after June 1 under Tax Code Sections 31.03, 31.031, 31.032, or 31.04. *Op. Tex. Att'y Gen. No. DM-491* (1998). (In 1999, the 76th Texas Legislature enacted Texas Tax Code, sec. 33.08 to provide for the penalty on taxes that go delinquent on or after June 1.)

February 1 is the delinquency date for taxes where bills cannot be mailed because the address of the taxpayer is unknown. These delinquent taxes accrue interest and penalties. *Op. Tex. Att'y Gen. No. JM-1192* (1990)

Sec. 31.05. Discounts.

- (a) The governing body of a taxing unit may adopt the discounts provided by Subsection (b) or Subsection (c), or both, in the manner required by law for official action by the body. The discounts, if adopted, apply only to that taxing unit's taxes. If a taxing unit adopts both discounts under Subsections (b) and (c), the discounts adopted under Subsection (b) apply unless the tax bills for the unit are mailed after September 30, in which case only the discounts under Subsection (c) apply. A taxing unit that collects taxes for another taxing unit that adopts the discounts may prepare and mail separate tax bills on behalf of the adopting taxing unit and may charge an additional fee for preparing and mailing the separate tax bills and for collecting the taxes imposed by the adopting taxing unit. If under an intergovernmental contract a county assessor-collector collects taxes for a taxing unit that adopts the discounts, the county assessor-collector may terminate the contract if the county has adopted a discount policy that is different from the discount policy adopted by the adopting taxing unit.
- (b) A taxing unit may adopt the following discounts to apply regardless of the date on which it mails its tax bills:
 - (1) three percent if the tax is paid in October or earlier;
 - (2) two percent if the tax is paid in November; and
 - (3) one percent if the tax is paid in December.
- (c) A taxing unit may adopt the following discounts to apply when it mails its tax bills after September 30:
 - (1) three percent if the tax is paid before or during the next full calendar month following the date on which the tax bills were mailed;
 - (2) two percent if the tax is paid during the second full calendar month following the date on which the tax bills were mailed; and
 - (3) one percent if the tax is paid during the third full calendar month following the date on which the tax bills were mailed.

(d) Repealed by Acts 1983, 68th Leg., p. 4876, ch. 862, Sec. 3, eff. Sept. 1, 1983.

Acts 1979, 66th Leg., p. 2285, ch. 841, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 167, ch. 13, § 124, eff. Jan. 1, 1982; Acts 1983, 68th Leg., p. 16, ch. 5, § 2, eff. March 14, 1983; Acts 1983, 68th Leg., pp. 4875, 4876, ch. 862, §§ 2, 3, eff. Sept. 1, 1983; Acts 2005, 79th Leg., ch. 1126, § 9, eff. Sept. 1, 2005.

Cross References:

Constitutional authorization for discounts, see art. VIII, Sec. 20, Tex. Const.

Tax bill must include explanation of discount payment option, see Sec. 31.01(c)(8).

Postponement of delinquency date, see Sec. 31.04.

Partial payment not allowed discount, see Sec. 31.07.

Notes:

A school district may not offer an early payment discount to its taxpayers if the school district contacts with a county for tax collection services and the county does not offer early payment discounts for county taxes. *Op. Tex. Att'y Gen. No. GA-0225* (2004).

Under Sec. 31.05(a), Tax Code, a county education district's board of trustees may adopt the discounts provided for the timely payment of taxes under subsections (b) and (c) only if all taxing units that collect the county education district's taxes have adopted the discounts. The board of trustees of an independent school district that is a part of a county education district and collects its own taxes in addition to the county education district's taxes may adopt the discounts. *Op. Tex. Att'y Gen. No. DM-171* (1992).

Sec. 31.06. Medium of Payment.

- (a) Except as provided by Section 31.061, taxes are payable only in currency of the United States. However, a collector may accept a check or money order in payment of taxes, and may accept payment by credit card or electronic funds transfer. A collector and a person may enter into an agreement under which the person pays taxes by electronic funds transfer. The agreement must:
 - (1) be in writing;
 - (2) be signed by the collector and the person; and
 - (3) specify the means or format of payment by electronic funds transfer.
- (b) Acceptance by a collector of a check or money order or of payment by credit card constitutes payment of a tax as of the date of acceptance if the check, money order, or credit card invoice is duly paid or honored. If the check, money order, or credit card invoice is not duly paid or honored, the collector shall deliver written notice of nonpayment to the person who attempted payment by check, money order, or credit card. Until payment is made in full by cash or by a check, money order, or credit card that is duly paid or honored, the lien securing payment of the tax remains in effect, whether or not the person receives notice of nonpayment.
- (c) If a tax is paid by credit card, the collector may collect a fee for processing the payment. The collector shall set the fee in an amount that is reasonably related to the expense incurred by the collector or taxing unit in processing the payment by credit card, not to exceed five percent of the amount of taxes and any penalties or interest being paid. The fee is in addition to the amount of taxes, penalties, or interest.
- (d) If a check or money order accepted in payment of taxes or the invoice for a payment of taxes by credit card is not duly paid or honored, the amount of any charge against the taxing unit for processing the check, order, or credit card invoice is added to the amount of tax due in the same manner as penalties and interest are added for taxes that are delinquent. The tax lien on the property also secures payment of the amount of the charge.

Amended by 1981 Tex. Laws (1st C.S.), p. 167, ch. 13, Sec. 125; amended by 1989 Tex. Laws, p. 3300, ch. 737, Sec. 1; amended by 1993 Tex. Laws, p. 2738, ch. 697, Sec. 1; amended by 1999 Tex. Laws, p. 3146, ch. 606, Sec. 1; amended by 2001 Tex. Laws, p. 1030, ch. 529, Sec. 2.