



King County

Metropolitan King County Council
Budget and Fiscal Management Committee

Agenda Item No.: 6
Proposed No.: 2012-0002

Date: March 20, 2012
Prepared By: Amy Tsai

STAFF REPORT

SUBJECT: A MOTION authorizing the Treasury Division to cancel \$661,081.35 in outstanding personal property taxes found to be uncollectible.

SUMMARY:

The Treasury Division annually requests cancellation of outstanding uncollectible personal property taxes after due diligent attempts to collect the taxes have been made. This allows the Treasury Division to remove uncollectible property taxes from the tax rolls, but the County does not relinquish its ability to collect on the debts. The proposed motion would cancel 463 accounts for a total of \$661,081.35. The impact to the County would be 18 percent, or \$118,995. Of that amount, half, or \$59,497, is the projected loss to the General Fund.

BACKGROUND:

King County's Treasury Operations Section is responsible for collecting personal property taxes within the county. Personal property refers to assets used in conducting a business; it includes machinery, equipment, furniture, supplies of businesses and farmers, and leasehold improvements. Personal property taxes are assessed against businesses, utilities, airlines, timber, leasehold estates, mobile homes, floating homes and lease accounts.

When an account becomes delinquent, Treasury initiates procedures to obtain payment (see Attachment 4). After Treasury performs diligent efforts to collect, state law (RCW 84.56.240 and RCW 84.56.260) requires Treasury to submit a list to the Council of those delinquent tax accounts found to be uncollectible. The county's Manager of Treasury Operations must also submit an affidavit stating that a diligent search for the delinquent taxpayers was conducted and unable to yield any property from which owed taxes could be collected. The Council may then "cancel such taxes as they are satisfied cannot be collected." *This procedure is required on an annual basis and the Council considers this type of legislation each year.*

ANALYSIS:

This legislation would authorize the Manager of Treasury Operations to cancel 463 uncollectible personal property tax accounts, as listed in Attachment B to Proposed Motion 2012-0002. These accounts total \$661,081.35 and date from 2000 to 2011, as reported in the Executive's transmittal letter (Attachment 2) and shown below in Table 1.

Table 1. Uncollectible Taxes Proposed for Cancellation

<i>Year Billed</i>	<i>Amount Unpaid</i>
2011	\$ 34,400.23
2010	\$ 254,033.66
2009	\$ 141,095.25
2008	\$ 126,239.55
2007	\$ 40,682.79
2006	\$ 24,169.11
2005	\$ 22,571.19
2004	\$ 2,032.05
2003	\$ 12,819.22
2002	\$ 1,395.60
2001	\$ 199.55
2000	\$ 1,443.15
<i>Total</i>	<i>\$661,081.35</i>

The majority of personal property taxes are successfully collected within the first three years of billing. The range of accounts proposed for write-off span ten years because over time the Treasury section determines that taxes are not collectible for various reasons. Accounts have been included on the write-off list for the following reasons:

- Taxpayer has gone out of business, and the assets cannot be traced.
- Taxpayer does not have real property to which the county can certify a personal property tax lien.
- Taxpayer has filed for bankruptcy protection.
- Taxpayer has disposed of or sold assets, and the county cannot locate the assets.
- Taxpayer relocated the business and property out of state, taking it out of the county's jurisdiction to pursue delinquent tax payments.
- Corporate Officers with no personal liability of defunct corporate debt.
- Assessments were made in error.

An affidavit from the Manager of Treasury Operations swearing to the county's diligent effort and ultimate inability to collect these payments has been transmitted to the Council as Attachment A to Proposed Motion 2012-0002.

The proposed motion would authorize the Manager of Treasury Operations to cancel \$661,081.35 in tax billings from the tax rolls. The accounts comprising the \$661,081.35 are listed in Attachment B. The encumbrances would no longer be carried forward.

Cancellation would not constitute a forgiveness of these debts. Tax obligations would remain in force, and the county would retain the ability to pursue appropriate legal actions to collect the debt. In reality, once accounts are cancelled then future collection is unlikely. However, cancellation administratively helps to clear the tax rolls of those accounts that are truly unlikely to be collected.

Of the write-off, the county's one-time potential revenue loss is \$118,995, or 18 percent of the total (half of the 18 percent, or \$59,497, is a projected loss to the General Fund). The remaining loss would be incurred by a variety of taxing jurisdictions for which the County collects taxes.

The write-off represents a small fraction of total personal property tax collections, and the General Fund financial plan is formulated to account for uncollectible and delinquent taxes, with estimated revenues based on historical collection rates. By year end 2011, King County collected 98.98 percent of personal property taxes billed on the 2011 tax roll, or \$198,900,000. According to the Executive's transmittal letter (Attachment 2), King County collected \$181,194,025, or 98.90 percent of the personal property taxes billed on the 2010 tax roll. The county collected \$155,052,170, or 98.94 percent in 2009. Typically, by the end of the third delinquent year, 99.9 percent of billed taxes have been collected.

The proposed total write-off of \$661,081 is less than the \$899,598 written off last year. However, that is because in 2010 there was a single large write-off of \$438,155 for a Trans World Airlines bankruptcy. In contrast, in Proposed Motion 2012-0002, the largest proposed write-offs are about \$40,000 each for two companies that went out of business. The write-offs listed in Attachment B to the proposed motion look typical for this annual request.

REASONABLENESS:

Treasury Operations has made diligent collection efforts and, as required by state law, has submitted the annual list of delinquent tax accounts to the Council. Approval of the proposed motion would be a reasonable policy and business decision.

INVITED:

Ken Guy, Director, Finance and Business Operations Division (FBOD)
Scott Matheson, Treasury Operations Manager, FBOD
Dwight Dively, Director, Office of Performance, Strategy and Budget

ATTACHMENTS:

1. Proposed Motion 2012-0002, with Attachments A. Affidavit and B. Write-off List
2. Transmittal Letter
3. Fiscal Note
4. Treasury Operations Collections Procedures

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KING COUNTY
Signature Report

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

March 19, 2012

Motion

Proposed No. 2012-0002.1

Sponsors McDermott

1 A MOTION authorizing the manager of treasury operations
2 of King County to cancel the attached list of uncollectible
3 personal property taxes in the amount of \$661,081.35 for
4 the years 2000 through 2011.

5 WHEREAS, the duly appointed manager of treasury operations of King County,
6 Washington has made an affidavit pursuant to the terms of RCW 84.56.240 and
7 84.56.260 to the King County council relating his diligent search and inquiry for goods
8 and chattels of the persons appearing on the list of delinquent taxpayers and his inability
9 to find any such property from which said taxes could be collected, and

10 WHEREAS, the duly appointed manager of treasury operations of King County,
11 Washington has requested the authority from the King County council to cancel said
12 taxes;

13 NOW, THEREFORE, BE IT MOVED by the King County Council:

14 The manager of treasury operations of King County is hereby authorized to cancel

15 the tax billings in the amount of \$661,081.35 from the records of treasury operations for
16 the years 2000 through 2011, but the obligation to King County is not forgiven.
17

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON

Larry Gossett, Chair

ATTEST:

Anne Noris, Clerk of the Council

APPROVED this ____ day of _____, _____.

Dow Constantine, County Executive

Attachments: A. Affidavit, B. List of Accounts on Writeoff Status 10-06-11

November 19, 2011

The Honorable Larry Gossett
 Chair, King County Council
 Room 1200
 C O U R T H O U S E

Dear Councilmember Ferguson:

Pursuant to RCW 84.56.240, Treasury Operations is required to submit annually to the Council a list of personal property accounts found to be uncollectible after diligent collection efforts have been made. The Council is required to “cancel such taxes as they are satisfied cannot be collected.” Such cancellation, however, does not constitute forgiveness of the debt to King County, which may be collected at a later date if we are able to locate real or personal property from which the debt can be collected.

Enclosed is an affidavit (Attachment A) from Treasury Operations requesting authority to cancel 463 uncollectible personal property tax accounts for the years 2000 through 2011 totaling \$661,081.35 (Attachment B). Since the County collects taxes on behalf of the state and all local districts in King County, the canceled accounts will proportionally reduce accounts receivables for the various taxing districts. The one-time revenue loss to King County is an estimated loss of \$118,994, of which \$59,497 is attributed to the county’s general fund.

Year Billed	Amount Unpaid
2011	\$ 34,400.23
2010	\$ 254,033.66
2009	\$ 141,095.25
2008	\$ 126,239.55
2007	\$ 40,682.79
2006	\$ 24,169.11
2005	\$ 22,571.19
2004	\$ 2,032.05
2003	\$ 12,819.22
2002	\$ 1,395.60
2001	\$ 199.55
2000	\$ 1,443.15
Total	\$ 661,081.35

The Honorable Larry Gossett
November 19, 2011
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Cancellation of personal property taxes result from taxpayers filing Chapter 7 and 11 bankruptcy proceedings, disposing of their assets, going out of business, or moving out of the state.

The amount being submitted for write off this year represents a small fractional percentage of the total taxes billed and is also a sizeable decrease from the \$899,598 written off in 2010. Note that King County Treasury collected \$181,194,025 or 98.90% of the personal property taxes billed on the 2010 tax roll. The comparable average collection rate for the previous three years is 98.97%. Historically, by the end of the third delinquent year, 99.9% of the personal property taxes billed are collected.

I hereby request that the Council approve the enclosed motion authorizing the Treasury Division to cancel the uncollectible personal property taxes in the amount of \$661,081.35.

If you have any questions regarding this matter, please contact Scott Matheson, Treasury Operations Manager, at 206-296-7333.

Sincerely,

Dow Constantine
King County Executive

Enclosures

cc: King County Councilmembers
 ATTN: Cindy Domingo, Acting Chief of Staff
 Mark Melroy, Senior Principal Legislative Analyst, BFM Committee
 Anne Noris, Clerk of the Council
Fred Jarrett, Deputy County Executive, King County Executive Office (KCEO)
Rhonda Berry, Assistant Deputy County Executive, KCEO
Carrie Cihak, Chief Advisor, Policy and Strategic Initiatives, KCEO
Dwight Dively, Director, Office of Performance, Strategy and Budget (OPSB)
Caroline Whalen, County Administrative Officer, Department of Executive
 Services (DES)
Ken Guy, Director, Finance and Business Operations Division (FBOD), DES
Scott Matheson, Manager, Treasury Operations Section, FBOD, DES

Ordinance/Motion No.	2012-0002
Title:	Fund 0010 and Other County Funds
Affected Agency and/or Agencies:	All County Funds
Note Prepared by:	Scott Matheson, Treasury Operations Manager
Note Reviewed by:	Karl Nygard, Budget Analyst, OMB

In accordance with RCW 84.56.240 and RCW 84.56.260, Treasury Operations is required to submit to the Council an annual list of delinquent tax accounts found to be uncollectible after extensive collection efforts have been made. The proposed motion authorizes the Manager of Treasury Operations to cancel § 661, 081 . 35 in uncollectible personal property tax accounts for the years 2000 through 2011.

Although the tax is declared "uncollectible" in the proposed legislation, it does not constitute forgiveness of the debt of King County. The account, however, is removed from the tax rolls and the encumbrance is no longer carried forward from year to year. The amount owed can still be collected at a later date (e.g., during a bankruptcy reconciliation).

The one-time potential revenue loss to King County, including all funds, is about 18 percent of the total or \$118,994, of which \$59,497 (9 percent of total) is the projected loss to the CX Fund. The remaining revenue loss is distributed among a variety of different taxing jurisdictions based on levy codes.

Revenue Reduction to:

Fund Title	Fund Code	Revenue Source	1st Year	2nd Year	3rd Year
CX Fund	0010		\$(59,497)	N/a	N/a
<u>Aggregate Impact for Other County Funds:</u> River Improvement; Veterans Services; Human Services; InterCounty River Improvements; Limited GO Bonds Debt Service' AFIS; Conservation Futures Levy; Farmland and Park Debt Service; Unlimited GO Bonds; EMS and Roads.	1050, 1060, 1070, 1820, 8400, 1220, 3151, 3842, 8500, 1190, 1030		\$(59,497)		
TOTAL			\$(118,994)	N/a	N/a

Expenditures from:

Fund Title	Fund Code	Department	1st Year	2nd Year	3rd Year
			0	0	0
TOTAL			0	0	0

Expenditures by Categories

	1st Year	2nd Year	3rd Year
Accident Benefits			
Supplies and Services			
Capital Outlay			
Other – CIP			
TOTAL		0	0

Treasury Operations Collection Procedures for Personal Property Taxes

General Overview of 2011 Personal Property Tax Collection

The Treasury Operations section has a tax collection team of one Business & Finance Officer and two Administrative Specialists who actively work to collect current and delinquent personal property accounts. Personal property taxes are assessed against businesses, state assessed utilities, airlines, timber, leasehold estates, mobile homes, floating homes and leased equipment accounts. This document highlights the annual steps involved in tax collections for personal property accounts, with emphasis on the procedures used to collect the delinquent accounts.

For the commercial accounts, the first half current year tax is due April 30. If the first half is not paid by April 30 then the full amount of the tax is due and accrues interest at 1 percent per month, as mandated by State law. On or about May 15, Treasury Operations mails the first delinquency "reminder notice" to the commercial business taxpayers of record who did not pay their first half current year tax. The notice politely informs them that the full amount for the entire year is due, with interest calculated to the end of May. Thereafter there are targeted delinquency mailings to commercial accounts in June, November and December with additional notice charges of \$15.00 and \$20.00 imposed to cover the administrative costs of the extra notices.

Mobile homes are assessed as personal property, however as part of an effort to better serve these taxpayers, taxes are collected in a manner similar to real property. No Notice Charges are imposed on mobile home owners, and these accounts can pay the first half tax through October 31 with the accrual of statutory interest and penalties.

In 2011 mobile home owners with unpaid taxes received their first notice of delinquency in mid September. This was a customer service improvement over prior years when the reminder notice was sent in November. As part of an ongoing commitment to improve customer service to taxpayers, in 2012 the reminder notice to mobile home owners will be sent in early June, which will help alleviate the continued accrual of interest and penalties on these accounts.

During February and March, the 139 mobile home park managers are sent lists of unpaid accounts, updated tax statements and the statutory requirements for payment. The park managers are asked to ensure that the individual mobile home owners are aware of their delinquencies and to advise their tenants to contact Treasury Operations if they are unable to pay in due course.

Although rarely used, another method of collecting delinquent taxes is by attaching the outstanding personal property tax bill to any real property owned by the taxpayer. This is done by a lien procedure and a formal certification that the outstanding personal property taxes are now part of the tax liability on the real property. This certification of the personal property tax to the real estate allows the County to collect the personal property taxes upon sale or foreclosure of the real property. The County must adhere to all statutory timeframes for foreclosure proceedings.

For the roll year 2011, Treasury Operations printed and mailed 46,554 personal property tax bills, totaling \$201,025,021.17 in collectable taxes. After the April 30th payment deadline passed, there remained 2204 unpaid accounts representing \$3,559,245 in uncollected 2011 taxes. On or about May 15, 2011, reminder notices were issued to all unpaid commercial accounts. By year end, 98.98% of the personal property taxes billed in 2011 were collected. To date there remains \$1,655,151 in uncollected 2011 taxes.

Collecting From Delinquent Accounts and Identifying Uncollectible Accounts

The Business & Finance Officer begins contacting taxpayers after the first notice is mailed in May and this contact continues until the account is paid, the property is sold or it becomes obvious that the tax is not going to be collected for reasons listed below. The collection emphasis during this time is initially directed to delinquent accounts that owe \$100,000 or more, with the emphasis shifting to accounts with delinquencies of \$10,000 or more as the larger accounts are collected.

On or about June 15, Treasury Operations mails a second reminder notice to those commercial personal property taxpayers of record who have not paid their current year personal property tax. The notice includes the amount of the outstanding tax, interest at one percent per month and a three percent penalty. This notice also reminds the owner that the property is subject to distraint and sale if the tax remains unpaid. (Distraint and sale of equipment is a statutorily authorized collection tool that has not been used for many years.) The Business and Finance Officer documents efforts to collect the accounts receiving the second notice. This collection activity is reported to the Property Tax Supervisor and the Treasury Operations Manager.

A similar process is followed after the October 31 due date for second half property taxes. On or about November 15, Treasury Operations mails reminder notices to all personal property taxpayers of record who have not paid their second half current year tax. Then on or about December 10, a second notice is sent to all unpaid personal property tax accounts detailing the accrued interest charges and adding on an eight percent penalty mandated by state statute.

After extensive efforts have been made to collect on outstanding personal property accounts, Treasury Operations prepares the annual list of accounts that are viewed as uncollectible and “written-off” from the County’s accounts receivable records. Following are the reasons why accounts are written-off:

- 1) The taxpayer has gone out of business and the assets cannot be traced;
- 2) The taxpayer does not have real property to which the county can certify a personal property tax lien;
- 3) The taxpayer has filed for bankruptcy protection (though the County files claims to collect back taxes as described below);
- 4) The taxpayer (or representative) has sold assets and the County cannot locate the assets; or
- 5) The taxpayer relocates their business and moves the property out of state (the County does not have authority to pursue delinquent tax payments outside of the state).
- 6) Corporate Officers refuse any personal liability of the defunct corporate debt.
- 7) It is discovered that the assessment was made in error and the taxes have no basis for collection and should not have been placed on the tax roll for billing by Treasury Operations.

It is important to emphasize that even though a personal property tax amount may be termed “uncollectible,” the tax obligation remains in force and the County continues to pursue appropriate legal actions to collect the outstanding tax debt. Following are examples of recent Business and Finance Officer collection efforts in accounts that were in bankruptcy or out of business:

- \$37,402.33 in personal property tax was collected as part of the \$735,679.13 Skyway Park Bowl bankruptcy and receivership settlement.

- The Chapter 11 Claim in the amount of \$23,619.14 for Redmond Supermarket LLC was paid in full after the assets were sold and the case was fully administered.
- After closure and sale of assets, \$36,302 was collected from Supreme Corq LLC.
- The claim for personal property taxes in the amount of \$123,247 in the Blockbuster Chapter 11 was paid in full after the objection to the County's claim was negotiated and the claim was identified as valid.
- Final payment was made in the Broadstripe bankruptcy in response to the claim in the amount of \$113,294.
- After auction and sale of assets, all taxes in the amount of \$45,423.81 was collected from Squak Mountain Materials LLC.
- The claim for personal property taxes in the amount of \$17,991.62 paid after negotiations with the Chapter 11 attorney for the debtor in response to the objection to the claim in the Borders Inc. Bankruptcy
- The claim for \$40,000 and all subsequently accrued interest and penalty was paid by Umpqua Bank after acquiring Evergreen Bank and Rainier Pacific Bank through an FDIC Receivership action.
- Westec Industries paid taxes due for 2008-2011 after public auction of assets.
- Through stepped up collection efforts, 55 accounts were paid and closed that had unpaid taxes for 7 years or more.
- The Business and Finance Officer actively monitors federal Bankruptcy Court proceedings and files bankruptcy claims on assessed real and personal property taxes.
- The Business and Finance Officer actively files claims and monitors FDIC Receiverships in the closure and recent wave of financial institution liquidations, sales and mergers.
- The Business and Finance Officer has made a concerted effort to work with distressed businesses that are unable to pay in full in a timely manner. Payment over time, or first half tax payments only (including interest and penalties) beyond the first half due date, have been accepted in these circumstances in an effort to bring the accounts current within the tax year.
- The Business and Finance Officer actively monitors all auctions within King County for potential sales of personal property that may have a tax lien attached. All foreclosure sales, secured creditor sales and seizures of property are monitored for compliance with Washington State tax statutes. No personal property sales are allowed without prepayment of the tax.

Submitted by:
 Mark Thompson
 Property Tax Supervisor