

TOCA Oak Leaf...APRIL 2014

NEWS AND ENTERTAINMENT LETTER

Fire Prevention Fee

The following information was reprinted from The Howard Jarvis Taxpayers Association Website.

If you own habitable property in Cal Fire's jurisdiction (known as the State Responsibility Area, SRA), you are affected by this tax.

The State Responsibility Area consists of public and private land that has been designated by the California Department of Forestry and Fire Protection (CDF) as areas where the State claims primary responsibility for the prevention and suppression of wildfires. It does not include land within city boundaries or under federal jurisdiction.

It is being collected by the Board of Equalization (BOE) and administered by the Department of Forestry and Fire Protection.

If you are late, there is a 20% penalty, plus interest. Every 30 days after that, another 20% penalty is added, plus interest. The fee is a lien on your property, and failure to pay can result in foreclosure.

Fees are charged to recover the government's cost to provide some service to the person paying the fee, or to regulate the activities of a business. Taxes, on the other hand, are revenue raising devices and need not be related in any specific way to benefits received by, or risks posed by the payer. The Legislature can enact fees with a simple majority vote, but needs a two-thirds vote of each house to enact taxes.

Under the definition above, the Howard Jarvis Taxpayers Association believes the new Fire Prevention Fee is really a tax that needed (but did not receive) two-thirds legislative approval. The Howard Jarvis Taxpayers Association has filed suit to challenge the fee and seek refunds for people who have filed a Petition for Redetermination.

If the Howard Jarvis Taxpayers Association is successful in their lawsuit, the court may order refunds to people who have filed a Petition for Redetermination.

Once you submit your Petition for Redetermination, do not be surprised if you receive a response from CDF denying your Petition on the grounds that it lacks a "statutory basis" for exemption from the fee. That simply means that CDF has no authority to evaluate our legal theories or pass judgment on them. Only a court can do that. If you receive such a denial, you do not need to take any action. Our lawsuit anticipates that everyone's Petition will be denied, and asks the court to step in and grant relief.

For more information on this tax you can go to <http://firetaxprotest.org>. We will also have petitions for redetermination available in the TOCA office.



TOCA OFFICE

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