

Opinion: Calif. not treating taxpayers fairly

By George Runner

Did you know that if the California takes your money in the form of an illegal tax or fee, you might not be able to get it back?

I was outraged when I first learned if a taxpayer pays a tax or fee that is later found to be unconstitutional or illegal in court, the government does not necessarily have to refund their money.



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Currently, taxpayers are only eligible to receive refunds if they have exhausted all of their “administrative appeals remedies,” even if the tax they paid is later declared illegal or unconstitutional.

In order for taxpayers to exhaust their “administrative appeals remedies” they must file a timely refund claim with the proper agency. The time period to file a refund claim is different for each tax and fee program, ranging anywhere from 30 days to several years.

That’s right; your state government will keep any and all money it illegally took from you, unless you have already jumped through several confusing administrative hoops – even

hoops that you were never aware of.

That's why this legislative session, I am proud to sponsor legislation to change this situation by extending important, common-sense protections to taxpayers. Two identical measures, AB2510 and SB1327, would require the state to provide a full refund to all individuals who paid a tax later declared unconstitutional or illegal.

These bills would require the state to automatically issue refunds to taxpayers who were illegally taxed. It would also open up an additional appeals period of one year after a state tax is declared unconstitutional, giving taxpayers a chance to apply for the refunds they deserve.

Our legislation would apply to state taxes and fees paid by both businesses and individuals, and would affect people all across California.

For example, these bills would apply to the controversial fire prevention fee, paid by nearly 800,000 rural homeowners every year. Even if the class action lawsuit currently challenging the fire fee is successful, only taxpayers who filed appeals within 30 days of the date on their bills would be eligible for refunds. Under SB1327 and AB2510, every fire fee payer would receive a refund.

Businesses and large taxpayers would also benefit from these bills becoming law. For example, a number of years ago the Board of Equalization overstated the property values of a number of power plants. One of the plants, Elk Hills Power, sued the BOE and eventually won, resulting in a partial refund of the taxes it paid. However, several other plants were deemed ineligible to receive a refund because they did not protest the original assessment.

In my opinion, this is just wrong.

According to SB1327 author state Sen. Steve Knight: "When

government makes a mistake, they need to do the right thing. This bill would return illegally collected taxes to the taxpayers... it's just common sense."

Assemblyman Donald Wagner, author of AB2510, adds: "When California taxpayers have been illegally forced to pay a tax, it should not be their responsibility to fill out paperwork that they may or may not know exists, in order to recoup this money. The State needs to reimburse the taxpayers as quickly and painlessly as possible – it is not our money."

It is criminal that California can keep money it illegally collects from its citizens. Anyone who in good faith pays what ends up being an illegal tax should get their money back. It's as simple as that.

George Runner represents more than 9 million Californians as a taxpayer advocate and elected member of the state Board of Equalization.