

SANTA CLARA COUNTY

Audit Report

COURT REVENUES

July 1, 2014, through June 30, 2018



BETTY T. YEE
California State Controller

July 2020



BETTY T. YEE
California State Controller

July 29, 2020

George P. Doorley, Controller-Treasurer
Santa Clara County
70 West Hedding Street, East Wing, 2nd Floor
San Jose, CA 95110

Rebecca Fleming, Chief Executive Officer
Superior Court of California, Santa Clara
County
191 North 1st Street
San Jose, CA 95113

Dear Mr. Doorley and Ms. Fleming:

The State Controller's Office audited Santa Clara County's court revenues for the period of July 1, 2014, through June 30, 2018.

Our audit found that the county overremitted \$84,161 in state court revenues to the State Treasurer because it:

- Overremitted the State Court Facilities Construction Fund – Immediate and Critical Needs Account (Vehicle Code section 70372[a]) by \$25,248; and
- Overremitted the State Court Facilities Construction Fund (Vehicle Code section 70372[a]) by \$58,913.

In addition, we found that the county incorrectly calculated its 50% excess of qualified revenues and the court made incorrect distributions related to red-light violations with traffic violator school and to health and safety cases. Our audit also found that the court failed to impose administrative screening and citation processing fees.

The county should reduce subsequent remittances to the State Treasurer by \$84,161.

If you have any questions regarding the audit findings, please contact Lisa Kurokawa, Chief, Compliance Audits Bureau, by telephone at (916) 327-3138, or by email at lkurokawa@sco.ca.gov.

Sincerely,

Original signed by

JIM L. SPANO, CPA
Chief, Division of Audits

JLS/ac

cc: The Honorable Cindy Chavez, President
 Santa Clara County Board of Supervisors
Annie Tom, Division Manager
 Santa Clara County Controller-Treasurer Department
Dora Espinoza, Division Manager
 Santa Clara County Department of Tax and Collections
Walter Eissmann, Director of Finance
 Superior Court of California, Santa Clara County
Grant Parks, Manager
 Internal Audit Services
 Judicial Council of California
Lynda Gledhill, Executive Officer
 California Victim Compensation Board
Anita Lee, Senior Fiscal and Policy Analyst
 Legislative Analyst's Office
Sandeep Singh, Manager
 Local Government Policy Section
 State Controller's Office
Jennifer Montecinos, Manager
 Tax Administration Section
 State Controller's Office
Lacey Baysinger, Supervisor
 Tax Administration Section
 State Controller's Office

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Audit Report

Summary

The State Controller's Office (SCO) performed an audit to determine the propriety of court revenues remitted to the State of California by Santa Clara County on the Report to State Controller of Remittance to State Treasurer (TC-31) for the period of July 1, 2014, through June 30, 2018.

Our audit found that the county overremitted \$84,161 in state court revenues to the State Treasurer because it:

- Overremitted the State Court Facilities Construction Fund – Immediate and Critical Needs Account (Vehicle Code [VC] section 70372[a]) by \$25,248; and
- Overremitted the State Court Facilities Construction Fund (VC section 70372[a]) by \$58,913.

In addition, we found that the county incorrectly calculated its 50% excess of qualified revenues, and the court made incorrect distributions related to red-light violations with traffic violator school (TVS) and to health and safety cases. Our audit also found that the court failed to impose administrative screening and citation processing fees.

Background

State statutes govern the distribution of court revenues, which include fines, penalties, assessments, fees, restitutions, bail forfeitures, and parking surcharges. Whenever the State is entitled to receive a portion of such money, the court is required by Government Code (GC) section 68101 to deposit the State's portion of court revenues with the County Treasurer as soon as is practical and provide the County Auditor with a monthly record of collections. This section further requires that the County Auditor transmit the funds and a record of the money collected to the State Treasurer at least once a month.

GC section 68103 requires the SCO to review the reports and records to ensure that all fines and forfeitures have been transmitted. GC section 68104 authorizes the SCO to examine records maintained by the court. Furthermore, GC section 12410 provides the SCO with general audit authority to audit the disbursement of state money for correctness, legality, and sufficient provisions of law for payment.

Objective, Scope, and Methodology

Our audit objective was to determine whether the county and court remitted all court revenues to the State Treasurer pursuant to the TC-31 process.

The audit period was July 1, 2014, through June 30, 2018.

To achieve our objective, we performed the following procedures:

General

- Gained an understanding of the county and court's revenue collection and reporting processes by interviewing key personnel, and reviewing documentation supporting the transaction flow;
- Scheduled monthly TC-31 remittances prepared by the county and the court showing court revenue distributions to the State; and
- Performed a review of the complete TC-31 remittance process for revenues collected and distributed by the county and the court.

Cash Collections

- Scheduled monthly cash disbursements prepared by the county and the court showing court revenue distributions to the State, county, and cities for all fiscal years in the audit period;
- Performed analytical procedures using ratio analysis for state and county revenues to assess the reasonableness of the revenue distributions based on statutory requirements; and
- Recomputed the annual maintenance-of-effort calculation for all fiscal years in the audit period to verify the accuracy and completeness of the 50% excess of qualified revenues remitted to the State.

Distribution Testing

- Assessed the priority of installment payments. Haphazardly selected a non-statistical sample of two installment payments to verify priority. No errors were identified;
- Scheduled parking surcharge revenues collected from entities that issue parking citations within the county to ensure that revenues were correct, complete, and remitted in accordance with state statutory requirements. No errors were identified;
- Performed a risk evaluation of the county and court and identified violation types that are prone to errors due to either their complexity and/or statutory changes during the audit period. Based on the risk evaluation, haphazardly selected a non-statistical sample of 62 cases for 10 violation types. Then, we:
 - Recomputed the sample case distributions and compared them to the actual distributions; and
 - Calculated the total dollar amount of significant underremittances and overremittances to the State and county.

Errors found were not projected to the intended (total) population.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient appropriate evidence to provide a reasonable basis for our findings and conclusions based on our

audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

We did not audit the county and the court's financial statements. We considered the county and court's internal controls only to the extent necessary to plan the audit. We did not review any court revenue remittances that the county and court may be required to make under GC sections 70353 and 77201.1(b), included in the TC-31.

Conclusion

As a result of performing the audit procedures, we found instances of noncompliance with the requirements described in our audit objective. Specifically, we found that \$84,161 in state court revenues was overremitted to the State Treasurer as follows:

- State Court Facilities Construction Fund – Immediate and Critical Needs Account (VC section 70372[a]) was overremitted by \$25,248; and
- State Court Facilities Construction Fund (VC section 70372[a]) was overremitted by \$58,913.

These instances of noncompliance are quantified in the Schedule and described in the Findings and Recommendations section of this audit report.

In addition, we found that the county incorrectly calculated its 50% excess of qualified revenues and the court made incorrect distributions related to red-light violations with TVS and to health and safety cases. Our audit also found that the court failed to impose administrative screening and citation processing fees.

The county should reduce subsequent remittances to the State Treasurer by \$84,161.

Follow-up on Prior Audit Findings

The county has satisfactorily resolved the findings noted in our prior audit report, for the period of July 1, 2004, through June 30, 2010, issued March 7, 2012, with the exception of Findings 2 and 3 of this audit report.

Views of Responsible Officials

We issued a draft report on June 29, 2020. George P. Doorley, Controller-Treasurer, Santa Clara County, responded by letter dated July 7, 2020 (Attachment A), agreeing with the audit results. In addition, Rebecca J. Fleming, Chief Executive Officer, Superior Court of California, Santa Clara County, responded by letter dated July 7, 2020 (Attachment B), agreeing with the audit results.

Restricted Use

This audit report is solely for the information and use of Santa Clara County; Superior Court of California, Santa Clara County; the Judicial Council of California; and SCO; it is not intended to be and should not be used by anyone other than these specified parties. This restriction is not intended to limit distribution of this audit report, which is a matter of public record and is available on the SCO website at www.sco.ca.gov.

Original signed by

JIM L. SPANO, CPA
Chief, Division of Audits

July 29, 2020

Schedule— Summary of Audit Findings Affecting Remittances to the State Treasurer July 1, 2014, through June 30, 2018

Finding ¹	Fiscal Year				Total	Reference ²
	2014-15	2015-16	2016-17	2017-18		
Overremitted State Court Facilities Construction Penalties						
<u>Santa Clara County</u>						
State Court Facilities Construction Fund – Immediate and Critical Needs Account – VC §70372(a)	(7,736)	(7,329)	(6,009)	(4,174)	(25,248)	
State Court Facilities Construction Fund – VC §70372(a)	<u>(18,050)</u>	<u>(17,102)</u>	<u>(14,021)</u>	<u>(9,740)</u>	<u>(58,913)</u>	
Total	<u>(25,786)</u>	<u>(24,431)</u>	<u>(20,030)</u>	<u>(13,914)</u>	<u>(84,161)</u>	Finding 2
Total amount overremitted to the State Treasurer	<u>\$ (25,786)</u>	<u>\$ (24,431)</u>	<u>\$ (20,030)</u>	<u>\$ (13,914)</u>	<u>\$ (84,161)</u>	

¹The identification of state revenue account titles should be used to ensure proper recording when preparing the TC-31.

²See the Findings and Recommendations section.

Findings and Recommendations

FINDING 1— Incorrect calculation of 50% excess of qualified revenues

During our recalculation of the 50% excess of qualified revenues, we found that the county used incorrect qualified revenue amounts in its calculation. However, these errors did not result in underremittances to the State Treasurer, as the qualified revenues were below the base amount for the audit period. The 50% excess of qualified revenues was incorrectly calculated because the county misinterpreted the required calculations.

For the audit period, the county provided support for its calculation of the 50% excess of qualified revenues. We reviewed the county's calculation and reconciled the qualified revenues to revenue collection reports provided by the court and the county's Department of Tax and Collections (formerly the Department of Revenue). We noted that the county incorrectly excluded the revenues collected for the Emergency Medical Services Fund (GC section 76104), Maddy Emergency Medical Services Fund (GC section 76000.5), and city base fines (VC section 42007[c]) from the calculation of the TVS fee (VC section 42007) during the audit period.

We recalculated the county's 50% excess of qualified revenues based on actual court revenues collected for each fiscal year. After our recalculation, we found that the county had understated qualified revenues for each fiscal year under audit. However, the adjusted qualified revenues were still below the base amount for the county in all four fiscal years. As a result, we found no underremittances related to the 50% excess of qualified revenues calculation.

GC section 77205 requires the county to remit 50% of the qualified revenues that exceed the amount specified in GC section 77201.1(b)(2) for fiscal year 1998-99, and each fiscal year thereafter, to the State Trial Court Improvement and Modernization Fund.

Recommendation

We recommend that the county:

- Correct the formulas in its 50% excess of qualified revenues calculation worksheets; and
- Ensure that the proper accounts are included in the calculation of each line item on the 50% excess of qualified revenues form.

County's Response

We agree with the finding and will work with Superior Court on the revenues to be included in the MOE calculation.

Court's Response

We concur with the finding and will work with the County of Santa Clara on the revenues to be included in the MOE calculation.

**FINDING 2—
Overremitted State
Court Facilities
Construction
penalties
(Repeat Finding)**

During our review of the county's collection reports, we found that the county overremitted State Court Facilities Construction penalty revenues by \$84,161 for the audit period. Revenues were overremitted because the county misinterpreted distribution guidelines and did not properly distribute 30% of the State Court Facilities Construction penalties for red-light violations.

We verified, on a sample basis, distributions made by the county using its accounting system. For each sample case, we recomputed the distributions and compared them to the actual distributions. During testing, we found that the county did not properly distribute 30% of the State Court Facilities Construction penalties (GC section 70372[a]) for red-light violations. This error resulted in overremittances to the State Court Facilities Construction Fund – Immediate and Critical Needs Account (GC section 70372[a]) by \$25,248 and the State Court Facilities Construction Fund (GC section 70372[a]) by \$58,913. The court corrected the error when it implemented its Odyssey case management system in June 2018.

PC section 1463.11 requires that the first 30% of red-light violation base fines, state penalties, and county penalties (PC sections 1463 and 1464, and GC section 76100, respectively) collected be distributed to the general fund of the county or city where the violation occurred.

The incorrect distributions had the following effect:

Account Title	Underremitted / (Overremitted)
State Court Facilities Construction Fund –	
Immediate and Critical Needs Account – GC §70372(a)	\$ (25,248)
State Court Facilities Construction Fund – GC §70372(a)	(58,913)
Total	<u>\$ (84,161)</u>
Santa Clara County – General Fund	\$ 6,379
City fine revenue accounts:	
Expressway	1,187
City of Gilroy	3,190
City of Morgan Hill	848
City of Los Gatos	1,528
City of Campbell	2,154
City of Saratoga	2,032
City of Palo Alto	3,050
City of Mountain View	4,822
City of Los Altos	806
City of Los Altos Hills	99
City of San Jose	21,492
City of Milpitas	7,383
City of Santa Clara	6,625
City of Sunnyvale	6,124
City of Cupertino	14,962
Santa Clara Valley Transportation Authority	843
San Mateo County Transit District	200
De Anza College	236
Evergreen College	38
Foothill College	59
Mission College	45
San Jose City College	10
West Valley College	49
Total	<u>\$ 84,161</u>

As discussed in Finding 3 of our prior audit report dated March 7, 2012, the county overremitted State Court Construction penalty revenues. This is a repeat finding because the county did not correct the distribution error noted in our prior audit report.

Recommendation

We recommend that the county:

- Offset subsequent remittances to the State Treasurer by \$84,161; and
- Report on the TC-31 decreases of \$25,248 to the State Court Facilities Construction Fund – Immediate and Critical Needs Account (GC section 70372[a]) and \$58,913 to the State Court Facilities Construction Fund (GC section 70372[a]).

County's Response

We agree with the finding and will offset subsequent payments to the State Treasurer by [the amount] of \$84,161 and will report on the remittance advice form (TC-31) as reductions [of] \$25,248 to the State Court Facilities Construction Fund-Critical Needs Account [GC70372(a)] and \$58,913 to the State Court Facilities Construction Fund [GC70372(a)]. Consequently, these amounts will be distributed to the cities, schools and agencies as authorized by PC section 1463.11.

FINDING 3— Incorrect distributions to Emergency Medical Services Fund (Repeat Finding)

During our testing of red-light TVS cases, we found that the court did not properly distribute revenues to the Emergency Medical Services Fund (GC section 76104). This error occurred because the court misinterpreted distribution guidelines.

We verified, on a sample basis, distributions made by the court using its accounting system. For each sample case, we recomputed the distributions and compared them to the actual distributions. During testing, we found that the county incorrectly distributed \$0.70 for every \$7 collected for the local county penalty (GC section 76000) to the Emergency Medical Services Fund (GC section 76104) instead of the required \$2 for every \$7 collected.

However, the error had no effect on the 50% excess of qualified revenues calculation, as the overremittances to the TVS fee (VC section 42007) offset the underremittances to the Emergency Medical Services Fund (GC section 76104).

We did not measure the fiscal effect of this error because it was not material, given the low number of affected cases. The error occurred in June 2018 when the court implemented its Odyssey case management system.

VC section 42007(b) requires counties with an established Maddy Emergency Medical Services Fund to collect \$2 for every \$7 pursuant to GC section 76000, and to collect \$2 for every \$10 pursuant to GC section 76000.5 for deposit in the fund.

As discussed in Finding 5 of our prior audit report dated March 7, 2012, the county made incorrect distributions to the Emergency Medical Services Fund. This is a repeat finding because although corrective actions were taken, the errors recurred when the county implemented its new case management system.

Recommendation

We recommend that the court:

- Correct its Odyssey case management system to comply with statutory requirements; and
- Ensure that \$2 for every \$7 collected for the local county penalty on red-light TVS cases is distributed to the Emergency Medical Services Fund (GC section 76104).

Court's Response

We concur with this finding and will adjust the configuration [of] our Odyssey case management system in July 2020.

FINDING 4— Failure to enhance base fines on health and safety cases

During our testing of health and safety cases, we found that the court did not program the criminal laboratory analysis fee (Health and Safety Code [HSC] section 11372.5) or the drug program fee (HSC section 11372.7) as base fine enhancements in its accounting system. The error occurred because the court misinterpreted the distribution guidelines.

We verified, on a sample basis, distributions made by the court using its accounting system. For each sampled case, we recomputed the distributions and compared them to the actual distributions. We found that the court did not program the \$50 criminal laboratory fee or the \$150 drug program fee as base fine enhancements in its accounting system. As neither fee was programmed into the accounting system, the fees were not collected by the court and remitted to the county.

Despite the lack of collection by the court, the county continued to distribute the \$50 fee to the Criminalistics Laboratories Fund (HSC section 11372.5) as required, using funds from HSC section 11502 collections. As a result, HSC 11502 collections were understated.

In addition to understated HSC section 11502 collections, the lack of base fine enhancements also affects the 50% excess of qualified revenues calculation, as the county's portion of the State Penalty Fund (PC section 1464) is included in the calculation. This error cannot now be reversed because the court cannot retroactively collect from defendants or recalculate the base fine enhancements.

HSC section 11372.5 requires defendants convicted of violating specific Health and Safety Code sections regulating controlled substances to pay a \$50 criminal laboratory analysis for each separate offense and the court to increase the total fine as necessary to include the increment. Deposits made pursuant to this section must be made prior to any transfer pursuant to section 11502.

HSC section 11372.7 requires defendants convicted of a violation of Chapter 6 of the Health and Safety Code to pay a drug program fee in an amount not to exceed \$150 for each separate offense and the court to increase the total fine as necessary to include the increment. Deposits made pursuant to this section must be made prior to any transfer pursuant to section 11502.

Recommendation

We recommend that the court:

- Correct its accounting system to comply with statutory requirements; and
- Ensure that the criminal laboratory analysis fee (HSC section 11372.5) and drug program fee (HSC section 11372.7) are programmed as base fine enhancements in the court's accounting system.

Court's Response

We concur with this finding. This issue was remedied with the implementation of our Odyssey case management system in 2018.

**FINDING 5—
Failure to impose
administrative
screening and citation
processing fees**

During our recalculation of the 50% excess of qualified revenues, we found that the court did not impose administrative screening fees or citation processing fees during the audit period. The error occurred because the court staff were unaware of the required fees.

For the audit period, the county provided support for its calculation of the 50% excess of qualified revenues. We reviewed the county's calculation and reconciled the qualified revenues to revenue collection reports provided by the court and the county's Department of Tax and Collections.

PC section 1463.07 requires a \$25 administrative screening fee from each person arrested and released on his or her recognizance upon conviction for any criminal offense, other than an infraction. The section also requires a \$10 citation processing fee from each person cited and released by any peace officer in the field or at a jail facility upon conviction of any criminal offense other than an infraction.

The court's failure to impose administrative screening and citation processing fees caused an understatement in deposits to the county General Fund. In addition, the failure to collect the fees understated the qualified revenues used to compute the maintenance-of-effort calculation pursuant to GC section 77205.

Recommendation

We recommend that the court:

- Include the assessment of administrative screening and citation processing fees in sentencing guidelines used by its judicial officers; and
- Update its case management system to assess these fees.

Court's Response

We will further discuss this matter with our judicial officers.

**Attachment A—
County's Response to Draft Audit Report**

County of Santa Clara

Finance Agency
Controller-Treasurer Department

County Government Center
70 West Hedding Street, East Wing 2nd floor
San Jose, California 95110-1705
(408) 299-5205 FAX 287-7629



July 7, 2020

Jim L. Spano, CPA
Chief, Division of Audits
State Controller's Office
P.O. Box 942850
Sacramento, CA 94250

Subject: State Controller's Office Audit of Santa Clara County's Court
Revenues for the Period July 1, 2014 to June 30, 2018

Dear Mr. Spano:

We are writing to respond to the State Controller's Office audit of Santa Clara County's court revenues for the period July 1, 2014 to June 30, 2018.

Finding 1 – Incorrect Calculation of 50% of Excess Qualified Revenues

We agree with the finding and will work with Superior Court on the revenues to be included in the MOE calculation.

Finding 2 - Over Remitted State Court Facilities Construction Penalties from Red-Light Violations Amounting \$84,161

We agree with the finding and will offset subsequent payments to the State Treasurer by of \$84,161 and will report on the remittance advice form (TC-31) as reductions \$25,248 to the State Court Facilities Construction Fund-Critical Needs Account [GC70372(a)] and \$58,913 to the State Court Facilities Construction Fund [GC70372(a)]. Consequently, these amounts will be distributed to the cities, schools and agencies as authorized by PC section 1463.11.

Finding 3 – Incorrect Distributions to the Emergency Medical Services Fund

This finding will be addressed by the Superior Court.

Board of Supervisors: Mike Wasserman, Cindy Chavez, Dave Cortese, Susan Ellenberg, S. Joseph Simitian
County Executive: Jeffrey V. Smith

County of Santa Clara

Finance Agency
Controller-Treasurer Department

County Government Center
70 West Hedding Street, East Wing 2nd floor
San Jose, California 95110-1705
(408) 299-5205 FAX 287-7629



Finding 4 – Failure to Enhance Base Fines on Health and Safety Cases

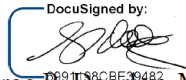
This finding will be addressed by the Superior Court

Finding 5 – Failure to Impose Administrative Screening and Citation Processing Fees

This finding will be addressed by the Superior Court

We appreciate the professionalism of your audit team led by Mr. Douglas Brejnak. Should you have any questions, please contact Trish Phan, General Accounting Manager, at (408) 299-5227.

Sincerely,

DocuSigned by:


George P. Dooney, MBA, CPFO
Controller-Treasurer

Cc: Rebecca Fleming, Chief Executive Officer, Superior Court, Santa Clara County
Annie Tom, Division Manager, Controller-Treasurer, Santa Clara County
Dora Espinoza, Division Manager, Department of Tax and Collections
Walter Eissmann, Director of Finance, Superior Court, Santa Clara County
Jennifer Montecinos, Manager, Tax Administration, State Controller's Office

Board of Supervisors: Mike Wasserman, Cindy Chavez, Dave Cortese, Susan Ellenberg, S. Joseph Simitian
County Executive: Jeffrey V. Smith

**Attachment B—
Court's Response to Draft Audit Report**

**Superior Court of California
County of Santa Clara**

191 North First Street
San José, California 95113
(408) 882-2700

REBECCA J. FLEMING
Chief Executive Officer



July 7, 2020

Jim L. Spano, CPA
Chief, Division of Audits
State Controller's Office
P.O. Box 942850
Sacramento, CA 94250

Subject: State Controller's Office Audit of the Superior Court of California – County of Santa Clara court revenues for the Period July 1, 2014 to June 30, 2018

Dear Mr. Spano:

We are writing to respond to the State Controller's Office Audit of the Superior Court of California – County of Santa Clara's court revenues for the period July 1, 2014 to June 30, 2018.

Finding 1 – Incorrect Calculation of 50% of Excess Qualified Revenues

We concur with the finding and will work with the County of Santa Clara on the revenues to be included in the MOE calculation.

Finding 2 - Over Remitted State Court Facilities Construction Penalties from Red-Light Violations Amounting \$84,161

This finding will be addressed by the County of Santa Clara

Finding 3 – Incorrect Distributions to the Emergency Medical Services Fund

We concur with this finding and will adjust the configuration in our Odyssey case management system in July 2020.

Finding 4 – Failure to Enhance Base Fines on Health and Safety Cases

We concur with this finding. This issue was remedied with the implementation of our Odyssey case management system in 2018.

July 7, 2020

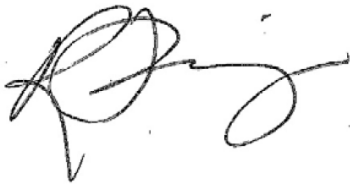
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Finding 5 – Failure to Impose Administrative Screening and Citation Processing Fees

We will further discuss this matter with our judicial officers.

Should you have any questions or concerns, please contact Walter Eissmann, Director of Finance, at (408) 882-2871.

Sincerely,

A handwritten signature in black ink, appearing to read 'R. Fleming', with a long horizontal flourish extending to the right.

Rebecca J. Fleming
Chief Executive Officer

Cc: George P. Doorley, Controller-Treasurer, Santa Clara County
Walter Eissmann, Director of Finance, Superior Ct of CA, County of Santa Clara
Annie Tom, Division Manager, Controller-Treasurer, Santa Clara County
Trish Phan, General Accounting Manager, Controller-Treasurer, Santa Clara County
Dora Espinoza, Division Manager, Department of Tax and Collections
Jennifer Montecinos, Manager, Tax Administration, State Controller's Office

**State Controller's Office
Division of Audits
Post Office Box 942850
Sacramento, CA 94250**

<http://www.sco.ca.gov>