

### South Dakota Airline Flight Property Taxes

To help pay for the cost of operating City airports, the State of South Dakota taxes “airline companies” doing business in South Dakota under SDCL Chapter 10-29. Essentially, the airline operator self-reports the valuation of their assets in the State, and State Department of Revenue (DOR) computes a tax, and apportions that amongst the various City airports the airline operates out of. See SDCL Chapter 10-29. That tax is due on January 1 of the year following their computation and assessment. SDCL 10-29-16. It is eventually communicated to the appropriate government entity for airport operations.

In this case, Chapter 10-29 Airport Flight Property taxes were assessed in 2017 (due in 2018) against Aerodynamics Incorporated (hereinafter ADI), and 2018 due in 2019 against California Pacific Airlines (hereinafter CalPac). The tax assessed in 2018/2019 against ADI amounted to \$13,407.74, and 2019/2020 against CalPac, amounted to \$10,945.11. They were never paid and are therefore now delinquent.

The collection of delinquent airline flight property taxes is addressed as follows:

#### **10-29-17. Collection of delinquent taxes.**

All laws relating to the enforcement of the payment of delinquent taxes, penalties, and interest shall be applicable to all taxes levied under the provisions of this chapter. Whenever any taxes levied under the provisions of this chapter shall become delinquent, the county treasurer having control of such delinquent taxes may proceed to collect the same in the same manner and with the same right and power as a sheriff under execution, except that no process shall be necessary to authorize him to sell flight property for collection of such taxes.

**Source:** SL 1961, ch 449, § 10.

The first sentence “[a]ll laws relating to the enforcement of the payment of delinquent taxes, penalties, and interest shall be applicable to all taxes levied under... this chapter” brings the provisions of SDCL Chapter 10-22 into the mix. Chapter 10-22 is the normal procedure for the collection of delinquent taxes on Mobile Homes, discussed *infra*. However, this statute adds a rather interesting twist, as this statute also gives the County Treasurer “...the same right and power as a sheriff under execution...” *Id.* This means the Treasurer is also authorized and empowered by the provisions of SDCL 10-29-17 to levy and arrange to sell “flight property” in her own right, without the involvement of the Sheriff. Further, “no process shall be necessary to authorize him [her] to sell flight property for collection of taxes.” *Id.* This means the Treasurer does not need to be empowered by an “execution” document (that document which is typically issued by the Clerk of Courts office on behalf of a civil creditor (see SDCL 15-18-5 *et seq.*) to convey authority from the Judge to the Sheriff to empower the Sheriff to levy and sell property in Civil Executions). This is the only situation I am aware of where the Treasurer is empowered to proceed in their own right. I myself have never heard of a Treasurer using it.

However, delinquent property taxes assessed under SDCL Chapter 10 upon mobile homes are much more common, and every year the County Treasurer is accustomed to dealing with these delinquent mobile home taxes under SDCL Chapter 10-22. In that situation, under Chapter 10-22 the Treasurer issues a Distress Warrant to the Sheriff, and the Sheriff is expected to levy any property of the delinquent taxpayers and sell it at a public auction to the highest bidder. See SDCL Chapter 10-22. It works the same for all State delinquent taxes (sales tax, excise tax, etc.). See SDCL Chapter 10-56. That situation is a well-beaten path for Treasurers statewide, and, as outlined *supra*, can also be used to collect delinquent Airline Flight Property taxes.

I am the Civil Process Deputy for the Codington County Sheriff's Office, in charge of working such distress warrants: I work approximately 150 delinquent tax warrants each year. In February of 2021, the Codington County Treasurer issued distress warrants to the Codington County Sheriff against Aerodynamics Incorporated and California Pacific Airlines under the provisions of SDCL Chapter 10-22. Proceeding under SDCL Chapter 10-22, I researched Aerodynamics and California Pacific with the intention of finding any property present in Codington County upon which I can levy and sell to collect the taxes.

### Aerodynamics Incorporated

"Aerodynamics, Incorporated" is a Michigan corporation that is still in existence (Michigan ID # 800152341), according to their 2020 Michigan Annual Report. According to the internet, their last-known physical location is 6544 Highland Rd. Waterford, MI 48327. That address is on the Oakland County International Airport in Waterford, Michigan. I called Airport Operations at (248) 666-3900; it appears to be the largest airport in the immediate area, similar in size to the Watertown Regional Airport, and yet rather thinly staffed, as the gal who answered the phone after six rings said she had three other lines ringing and she'd have to call me back. She also told me that the current Airport Manager "used to operate ADI." That turned out to be Cheryl Bush, who did call me back. Cheryl told me that her family started ADI back in 1959, and built it up into quite a business, and Cheryl operated it herself for 30+ years. However, things went bad in the late 2000s, and in 2013 the company had to file for bankruptcy. Cheryl wanted to get out of the business, and a Mr. Scott Beale made her an offer she did not refuse. Cheryl was later disappointed to find out Beale had bought ADI for their FAA operating certificates, and did not care a whit for the business or its 300+ employees. He promptly sold off all the local Michigan assets and moved company operations to Cleveland, Ohio. Cheryl eventually landed as the Airport Manager of the Oakland County International Airport in 2017. She told me, to the best of her knowledge, there is nothing left for assets in the state of Michigan, certainly not on her airport, of ADI.

Turns out Scott Beale could not get the FAA to allow him to operate ADI, due to his penchant to defraud creditors. In frustration, Beale sold his interest in ADI to John and Janet Beardsley of Portland, OR in 2015. Sometime after that ADI managed to get the Essential Air Service (EAS) contract to link Watertown and Pierre to Denver, and filed the appropriate paperwork to register ADI in South Dakota as foreign business entity #FB039544. According to their last South Dakota Annual Report (2017), filed 4/5/2018, their SD Registered Agent was National Registered Agents Inc of 319 Coteau Street, Pierre, SD 57201-3187. In 2017, SD ADI's President was Darrell Richardson, VP Mickey Bowman, and VP2 of Gregory Weaver, all of 114 Townpark Dr NW, Suite 500, Kennesaw, GA 30144; "ADI Acquisitions Inc." of Portland, Oregon is listed as a beneficial owner.

### California Pacific Airlines

I did not find "California Pacific Airlines" registered in South Dakota as any form of entity, and therefore it has no registered agent in this state. I find "California Pacific Airlines" is a California entity, corporate number C3216752. CalPac was started by resort magnate Theodore Lambro Vallas (commonly known as "Ted") in 2009 with the dream to serve some southwestern US routes out of Carlsbad, California, but Ted could never get FAA flight certifications and also didn't have any planes. This problem he solved with one swat in 2017 when he bought ADI from the Beardsleys, who already had those certifications and a leased fleet of four Embraer 170 jet planes and the current EAS contracts between Watertown, Pierre and Denver. At that point the Beardsleys badly need to sell as their fortunes had taken a turn for the worse and they were going under.

### *Aerodynamics, Inc. doing business as California Pacific Airlines*

It seems Ted never really intended to operate EAS in South Dakota: he may have only wanted ADI's certifications and existing aircraft fleet to accomplish his dream of CalPac flying, which he finally achieved in 2018. Ted immediately diverted two of the four ADI planes to Carlsbad, California, to begin service of his southwestern routes. Now spread way too thin, under CalPac's guidance a series of equipment breakdowns and cancellations quickly gave CalPac a bad reputation across the board, and passenger signups in the Watertown market soon suffered to the point of collapse by late 2018. Finally, South Dakota employees of CalPac were reporting that they hadn't been paid since December 2018 and their health insurance had expired, and all service in Watertown ended late January 2019 and everyone got laid off.

On January 16 2019, "Aerodynamics, Inc" of SD #FB039544 was administratively dissolved by the SD Secretary of State due to its failure to file required annual reports after 2017.

On 10/9/20 the Michigan ADI, Inc. retroactively filed their Michigan 2018 and 2019 reports with their 2020 reports, and is theoretically still operating. All three reports now indicate their current officers are CEO Theodore Lambro Vallas, Secretary/Treasurer Theodore George Vallas (Ted's son "Tee," home address 2322 Snead Drive, Oceanside, CA 92056-3718; business address listed as 2100 Palomar Airport Road, Suite 222, Carlsbad, CA 92011) and Director Scott Robinson (current address unknown, business address listed as 2100 Palomar Airport Road, Suite 222, Carlsbad, CA 92011). Also according to Michigan, their registered agent (in Michigan) is National Registered Agents, Inc. 40600 Ann Arbor Rd E STE 201, Plymouth, MI 48170.

### *Attempts to find Property of ADI or CalPac to Levy under the Distress Warrant in Codington County*

By the time Distress Warrants could be issued in this matter, CalPac had already packed up and sent out of South Dakota most anything of value. However, it came to my attention that there was some remaining property of either ADI or CalPac still being held by the Fixed Base Operator (FBO) at the Watertown Municipal Airport.

According to Mr. John Yost, who operates the FBO, when CalPac originally left town in February of 2019, they left behind all the machines, tools and parts used to maintain their leased line of Embraer 170 brand jet aircraft. There were four known jets operated by ADI - one of these four aircraft is rumored to still be sitting in Sioux City, Iowa under a mechanic's lien, due to that FBO not being paid for maintenance done on it; the other three jets whereabouts are unknown. There were also computers that were used to make passenger connections.

Yost told me soon after CalPac left town, CalPac's known mechanic "Bob," came back to Watertown and boxed up all of the valuable tools, machines, and computers, and sent them somewhere out-of-state. For some reason Bob left behind certain assorted parts that belong to the Embraer 170 line of aircraft. Specifically, these parts are "take-offs," or parts that were removed from operating aircraft for a variety of reasons ranging from a simple expiration date passing, to the part being broken beyond use. Bob later told Yost to box all of these parts up, which Yost did, but Bob never gave instructions as to where to send the parts. These parts remain to this day at the FBO in an upstairs storage room.

In late 2021 I travelled to that room in the FBO and looked in the boxes with Yost. There were approximately 10 boxes of various sizes, at the time all bound up and ready for shipping orders. Essentially, Yost tells me these parts are only good to anyone operating an Embraer 170 jet aircraft. As it turns out, Yost tells me Key Lime Airlines, the current Essential Air Service provider, is operating that very same line of aircraft.



One would think you could simply sell the parts to Key Lime to achieve at least some positive result. However, in order to levy any property, I must first establish conclusively that such property is in fact owned by the entity that owes the taxes. See SDCL 10-22-10: the sheriff shall attempt to collect the taxes "...by seizure of personal property of such person...[.]" I talked with John Yost as we looked over the remaining parts left behind, and to his knowledge there was really no way to show that either ADI or CalPac actually owns the parts, or more importantly, that the parts are NOT owned by perhaps the leaseholder of the leased aircraft the parts were actually removed from, or anyone else for that matter. This is the reason they currently sit there in the first place: nobody really knows whose parts they are or who is responsible for them.

The most potentially expensive part observed, the damaged but repairable nose-cone off the front of one of the 170 aircraft, according to Yost, is most likely a "core" and therefore rightfully belongs to the company who sent out the replacement part and never received the core back.

In fact, some of the parts in the original pile were sent out previously by Yost to Sioux City to be placed with the leased 170 aircraft sitting there under a mechanic's lien, because those parts were specifically branded with that aircraft's serial number, and therefore known to belong to it. That aircraft actually belongs to a leaseholder and was only operated by ADI/CalPac under lease, same as the other three aircraft.

I looked at many of the parts, and I did not identify any ownership markings at all. Some cardboard boxes had ADI's name on them as the original shipping receiver but did not specifically relate to the contents. Many were in boxes that had nothing to do with ownership at all. I found some bills of lading that still did not conclusively establish ownership. I was unable to pick out anything that I could conclusively show belonged to ADI or CalPac.

Selling property that *does not* belong to the debtor could subject the Sheriff's Office to potential liability to the actual owner when they eventually come looking for the property.

Further, all of the parts were known to be "take-offs" from operating aircraft, and therefore were either "expired" and therefore worthless, or were broken parts that perhaps still had sub-parts that maybe could be handy someday in the future. This means the entire stash might not be of very much value even to Key Lime, even though they are currently operating the same aircraft out of the same airport.

Further yet, were the Sheriff to levy the parts and locally advertise a sale, there would likely be only one potential buyer at the sale: Key Lime. Not exactly a good situation for a bidding war. If Key Lime looked things over and decided they weren't interested, there'd be no bidders at all.

#### Result:

Essentially, in my opinion the risk does not defend any potential reward of levying property of uncertain ownership when the property is likely of little value and there would probably be only one potential buyer who may not even be interested. I therefore recommend against attempting a levy on any of the items currently in the possession of the FBO at the Watertown Airport.

I am unaware of anything else in Codington County of either ADI or CalPac's that can be levied and sold in an effort to satisfy these Distress Warrants, and therefore I hereby return the Distress Warrants to the Codington County Treasurer marked as "Uncollectable."

Deputy Adam C. Reeves  
Civil Process Deputy, Codington County Sheriff's Office

(605) 882-6280  
[areeves@codington.org](mailto:areeves@codington.org)

**CODINGTON COUNTY TREASURER****Official Tax Notice**

14 FIRST AVENUE S.E. WATERTOWN, SD 57201

(605) 882-6285

**2018 TAXES DUE AND PAYABLE IN 2019****Legal:** STATE CENTRALLY ASSESSED**Taxes In  
Name Of**AERODYNAMICS, INC. DBA GREAT LAKES JET EXPR  
114 TOWNPARK DRIVE SUITE 500  
KENNESAW, GA 30144

<b>First Half</b>	<b>\$5,771.51</b>
<b>Second Half</b>	<b>\$5,771.51</b>
<b>TOTAL</b>	<b>\$11,543.02</b>

Taxes Totalling \$50.00 or less must be paid in full by April 30th.  
Please see reverse side for important information.

TO CITY OF WATERTOWN AIR FLIGHT.

**TAXING DISTRICT****ASSESSED VALUE****TAXABLE VALUE****TAX PER \$1,000****TOTAL**

723-209.51

\$11,543.02

**TOTAL: \$11,543.02**\* Indicates a local decision to opt out of the Tax Freeze. If the local vote to increase taxes had not passed, your taxes would not have included the items marked with an asterisk (\*).

⬇ Please detach stubs and return with your payment ⬇

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**-FIRST PAYMENT-****-SECOND PAYMENT-**

<b>TAX BILL NO.</b>	<b>AMOUNT DUE</b>
100102	\$5,771.51
<b>DELINQUENT AFTER APRIL 30th</b>	

<b>TAX BILL NO.</b>	<b>AMOUNT DUE</b>
100102	\$5,771.51
<b>DELINQUENT AFTER OCTOBER 31st</b>	

**CODINGTON COUNTY TREASURER****Official Tax Notice**

14 FIRST AVENUE S.E. WATERTOWN, SD 57201

(605) 882-6285

**2019 TAXES DUE AND PAYABLE IN 2020****Legal:**

STATE CENTRALLY ASSESSED

**Taxes In  
Name Of**CALIFORNIA PACIFIC AIRLINES  
2100 PALOMAR AIRPORT ROAD SUITE 222  
CARLSBAD, CA 92011-4402

<b>First Half</b>	<b>\$5,472.56</b>
<b>Second Half</b>	<b>\$5,472.55</b>
<b>TOTAL</b>	<b>\$10,945.11</b>

Taxes Totalling \$50.00 or less must be paid in full by April 30th.  
Please see reverse side for Important Information.

TO CITY OF WATERTOWN AIR FLIGHT

**TAXING DISTRICT****ASSESSED VALUE****TAXABLE VALUE****TAX PER \$1,000****TOTAL**

723-209.51

**\$10,945.11****TOTAL: \$10,945.11**

\* Indicates a local decision to opt out of the Tax Freeze. If the local vote to increase taxes had not passed, your taxes would not have included the items marked with an asterisk (\*).

⬇ Please detach stubs and return with your payment ⬇

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**-FIRST PAYMENT-****-SECOND PAYMENT-**

<b>TAX BILL NO.</b>	<b>AMOUNT DUE</b>
100107	\$5,472.56
<b>DELINQUENT AFTER APRIL 30th</b>	

<b>TAX BILL NO.</b>	<b>AMOUNT DUE</b>
100107	\$5,472.55
<b>DELINQUENT AFTER OCTOBER 31st</b>	