

APPENDIX 1

Code section	Name	Type	<p>Chapter 7 (11 U.S.C. § 727)</p> <p>Chapter 11 (individual reorganization) (11 U.S.C. § 1141(d)(2))</p> <p>Chapter 13 “hardship” discharge (11 U.S.C § 1328(b))</p> <p><i>A “fine, penalty, or forfeiture payable to and for the benefit of a governmental unit, [that] is not compensation for actual pecuniary loss” is non-dischargeable. (11 U.S.C. § 523(a)(7))</i></p>	<p>Chapter 11 (corporate reorganization) (11 U.S.C. § 1141(d)(6))</p> <p><i>No relevant exceptions to discharge appear to apply to court-ordered debt; court-ordered debt chargeable to a corporation is discharged (except in the case of a corporate liquidation in which case none of it is dischargeable). (11 U.S.C. §§ 1141(d)(1)(A), 1141(d)(3), 1141(d)(6))</i></p>	<p>Chapter 13 “regular” discharge (11 U.S.C § 1328(a))</p> <p><i>“[R]estitution, or a criminal fine, included in a sentence on the debtor’s conviction of a crime” is non-dischargeable. (11 U.S.C. § 1328(a)(3))</i></p>
PENAL CODE					
Pen. Code, § 987.5(a)	Public Defender Registration Fee	(FEE) Non-mandatory fee not to exceed \$50 imposed when defendant has appointed counsel.	Dischargeable	Likely not applicable to a corporate debtor	Dischargeable
Pen. Code, § 1001.90	Diversion Restitution Fee	(CALLED A “FEE” BUT SHOULD LIKELY BE TREATED AS A PENALTY/FINE FOR BANKRUPTCY PURPOSES)	Non-dischargeable	Dischargeable to the extent applicable to a corporate debtor	Likely non-dischargeable

		<p>“Fee” set at the discretion of the court commensurate with seriousness of the offense, not less than \$100 or more than \$1,000. Should be treated consistently with Penal Code section 1202.4(b) Restitution Fund Fines as non-dischargeable under section 523(a)(7). See discussion below.</p>			
<p>Pen. Code, § 1202.4(b)</p>	<p>State Restitution Fund Fine</p>	<p>(FINE) Fine set at the discretion of the court within certain ranges. Court-ordered restitution is non-dischargeable under section 523(a)(7). (See <i>Kelly v. Robinson</i> (1986) 479 U.S. 36; see also <i>In re Armstrong</i> (9th Cir. 2017) 677 F. App'x 434, 436 [under <i>Kelly</i>, both victim restitution under Penal Code section 1202.4(f) and restitution fine under Penal Code section 1202.4(b) are non-dischargeable under section 523(a)(7) because criminal restitution orders are “categorically” nondischargeable].) Several courts have held, in other contexts, that the</p>	<p>Non-dischargeable</p>	<p>Dischargeable to the extent applicable to a corporate debtor</p>	<p>Non-dischargeable</p>

		<p>Legislature intended restitution fines as punishment. (See <i>People v. Hanson</i> (2000) 23 Cal.4th 355, 361.) “Thus, a restitution fine calculated under the formula provided by section 1202.4, subdivision (b)(2), constitutes a criminal penalty, not a civil remedy.” (<i>People v. Le</i> (2006) 136 Cal.App.4th 925, 933, as modified (Mar. 7, 2006).)</p>			
<p>Pen. Code, § 1202.4(f)</p>	<p>Victim Restitution</p>	<p>(RESTITUTION BUT SHOULD LIKELY BE TREATED AS A PENALTY/FINE FOR BANKRUPTCY PURPOSES)</p> <p>Court-ordered restitution based on loss claimed by victims is non-dischargeable under section 523(a)(7). (See <i>Kelly v. Robinson</i> (1986) 479 U.S. 36; see also <i>In re Armstrong</i> (9th Cir. 2017) 677 F. App'x 434, 436 [under <i>Kelly</i>, both victim restitution under Penal Code section 1202.4(f) and restitution fine under Penal Code section 1202.4(b) are non-dischargeable under section 523(a)(7) because</p>	<p>Non-dischargeable</p>	<p>Dischargeable to the extent applicable to a corporate debtor</p>	<p>Non-dischargeable</p>

		<p>criminal restitution orders are “categorically” nondischargeable]; cf. <i>People v. Calhoun</i> (1983) 145 Cal. App. 3d 568, 571 [it is “well established a restitution order resulting from a criminal conviction is not a ‘debt’ . . . bankruptcy has no effect on a criminal restitution order because such an order does not create a debtor/creditor relationship as the order's purpose is to facilitate rehabilitation of the defendant, not to compensate the victim”].)</p>			
<p>Pen. Code, § 1202.4(l)</p>	<p>County Collection Fee</p>	<p>(FEE) Fee, discretionary by board of supervisors, to cover actual administrative cost of collecting restitution fine, not to exceed 10% of the restitution order.</p>	<p>Dischargeable</p>	<p>Dischargeable to the extent applicable to a corporate debtor</p>	<p>Dischargeable</p>
<p>Pen. Code, § 1202.5</p>	<p>Crime Prevention Fine</p>	<p>(FINE) \$10 fine for theft crimes. (Cf. <i>People v. Knightbent</i> (2010) 186 Cal.App.4th 1105, 1109 [“The \$10 obligation pursuant to Penal Code section 1202.5(a) is a criminal fine” for purposes of adding assessments].)</p>	<p>Non-dischargeable</p>	<p>Dischargeable to the extent applicable to a corporate debtor</p>	<p>Non-dischargeable</p>

Pen. Code, § 1203.097(a)(5)(A)	Domestic Violence Probation Fee	(FEE) Fee, minimum of \$500; may be reduced based on ability to pay. In another context, the California Attorney General has opined that this “does not constitute a ‘fine, penalty, or forfeiture’ to which penalty assessment provisions apply.” (See 81 Cal.Op.Atty.Gen. 131 (1998), available at 1998 WL 125374.)	Dischargeable	Likely not applicable to a corporate debtor	Dischargeable
Pen. Code, § 1203.1(l)	Restitution Administrative Fee	(FEE) Fee to cover actual administrative cost of collecting court ordered restitution, not to exceed 15% of the restitution order.	Dischargeable	Dischargeable to the extent applicable to a corporate debtor	Dischargeable
Pen. Code, § 1205(e)	Administrative Fee for Installments and Accounts Receivable	(FEE) Fee for administrative and clerical costs of processing installment accounts, not to exceed \$30. In another context, this has been held to be non-punitive. (See <i>People v. Soto</i> (2016) 245 Cal.App.4th 1219, 1237.)	Dischargeable	Dischargeable to the extent applicable to a corporate debtor	Dischargeable
Pen. Code, § 1214.1	Civil Assessment	(CALLED AN “ASSESSMENT” BUT SHOULD LIKELY BE TREATED AS A FINE / PENALTY FOR	Non-dischargeable ¹	Dischargeable to the extent applicable to a corporate debtor	Likely dischargeable (not a criminal fine)

¹ It appears that courts in at least two counties treat civil assessments under Penal Code section 1214.1 as dischargeable under Chapter 7.

		<p>BANKRUPTCY PURPOSES) Called a civil assessment, but acts as a fine/penalty of up to \$300 for failure to appear or failure to pay. (See Feb. 14, 2006 Legal Opinion Re: <i>Discharge of Civil Assessments in Bankruptcy</i> [LOU 05086]; citing <i>Kelly v. Robinson</i> (1986) 479 U.S. 36.)</p>			
<p>Pen. Code, § 1463.13(d)</p>	<p>Alcohol & Drug Problem Assessment</p>	<p>(ASSESSMENT) Assessment on every fine, penalty, or forfeiture imposed and collected by courts for an offense where the court orders participation in a county alcohol and drug problem assessment program. Acts as a fee of not more than \$150 to go toward county alcohol and drug program.</p>	<p>Dischargeable</p>	<p>Likely not applicable to a corporate debtor</p>	<p>Dischargeable</p>
<p>Pen. Code, § 1463.14(b)</p>	<p>DUI Lab Test Penalty</p>	<p>(CALLED A “PENALTY” BUT SHOULD LIKELY BE TREATED AS A FEE/ASSESSMENT FOR BANKRUPTCY PURPOSES) Penalty that is discretionary by county, acts as a flat fee of amount equal to cost of testing alcohol content, up to \$50.</p>	<p>Dischargeable</p>	<p>Likely not applicable to a corporate debtor</p>	<p>Likely dischargeable (not a criminal fine)</p>

<p>Pen. Code, § 1463.27</p>	<p>Domestic Violence Prevention Fee</p>	<p>(FEE) Fee of up to \$250 on every fine, penalty, or forfeiture imposed for crime of domestic violence to fund domestic violence prevention programs.</p>	<p>Dischargeable</p>	<p>Likely not applicable to a corporate debtor</p>	<p>Dischargeable</p>
<p>Pen. Code, § 1464</p>	<p>State Penalty Assessment</p>	<p>(PENALTY) Penalty assessment of \$10 for every \$10 or part thereof, of the fine, penalty or forfeiture.</p>	<p>Non-dischargeable</p>	<p>Dischargeable to the extent applicable to a corporate debtor</p>	<p>Likely dischargeable (not a criminal fine)</p>
<p>Pen. Code, § 1465.7</p>	<p>20% State Surcharge</p>	<p>(CALLED A “SURCHARGE” BUT SHOULD LIKELY BE TREATED AS A FINE/PENALTY FOR BANKRUPTCY PURPOSES) Surcharge of 20% of the base fine used to calculate the § 1464 state penalty assessment. For purposes of determining whether it can be imposed ex post facto, a court of appeal held that “[t]he surcharge mandated by Penal Code section 1465.7, like its companion penalty assessment set forth in section 1464, is a ‘garden variety’ fine calculated on the size and severity of the base fine imposed. It does not purport to reimburse</p>	<p>Non-dischargeable</p>	<p>Dischargeable to the extent applicable to a corporate debtor</p>	<p>Likely dischargeable (not a criminal fine)</p>

		government for an expense incurred.” (<i>People v. High</i> (2004) 119 Cal.App.4th 1192, 1197-1199; see also <i>People v. Soto</i> (2016) 245 Cal.App.4th 1219 [surcharge is punitive].)			
Pen. Code, § 1465.8	Court Operations Assessment	(ASSESSMENT) Called an assessment, but acts as a non-punitive \$40 flat fee. (<i>See People v. Alford</i> (2007) 42 Cal.4th 749; see also <i>People v. Pacheco</i> (2010) 187 Cal.App.4th 1392.)	Dischargeable ²	Dischargeable to the extent applicable to a corporate debtor	Dischargeable
GOVERNMENT CODE					
Gov. Code, § 29550(c)	Criminal Justice Administrative Fee	(FEE) Fee to cover actual administrative costs related to receiving an arrestee into detention facility.	Dischargeable	Dischargeable to the extent applicable to a corporate debtor	Dischargeable
Gov. Code, § 29550.2	Criminal Justice Administrative Fee (Booking Fee)	(FEE) Fee to cover actual administrative costs related to arrest and booking. In another context, this has specifically been held to be a non-punitive fee. (<i>See People v. Rivera</i> (1998) 65 Cal.App.4th 705, 707–712.)	Dischargeable	Dischargeable to the extent applicable to a corporate debtor	Dischargeable
Gov. Code, § 70372(a)	State Court Construction Penalty	(PENALTY) Penalty of \$5 for every \$10 or part thereof upon every	Non-dischargeable	Dischargeable to the extent applicable to a corporate debtor	Likely dischargeable (not a criminal fine)

² It appears that at least one court does not currently “write off” this assessment when notified of a Chapter 7 filing, but other courts do.

	(Immediate and Critical Needs Account or “ICNA”)	fine, penalty, or forfeiture. In another context, <i>People v. High</i> (2004) 119 Cal.App.4th 1192, held that section 70372 is intended “to be punitive as well as a source of money for the construction of court facilities.” Because the amounts “track[] the seriousness of the underlying offense and its base penalty,” it “has a similar deterrent effect to that of punitive statutes generally.” (<i>Id.</i> at pp. 1198-1199.)			
Gov. Code, § 70373	Criminal Conviction Assessment	(ASSESSMENT) Assessment that functions as a flat fee of \$30 for misdemeanor or felony and \$35 for each infraction. In another context, a court of appeal has held that this “is not a punitive statute, either in intent or operation.” (<i>People v. Cortez</i> (2010) 189 Cal.App.4th 1436, 1443, citing <i>People v. Fleury</i> (2010) 182 Cal.App.4th 1486, 1492; see also <i>People v. Kim</i> (2011) 193 Cal.App.4th 836.)	Dischargeable	Dischargeable to the extent applicable to a corporate debtor	Dischargeable
Gov. Code, § 71386(d)	Insufficient Check Fee	(FEE) Fee not to exceed actual cost of processing and collections	Dischargeable	Dischargeable to the extent applicable to a corporate debtor	Dischargeable

Gov. Code, § 76000(a)	County Penalty for Criminal Offense	(PENALTY) Penalty of \$7 for every \$10, or part thereof, upon every fine, penalty, or forfeiture. In another context, this has specifically been held to be punitive. (See <i>People v. Soto</i> (2016) 245 Cal.App.4th 1219.)	Non-dischargeable	Dischargeable to the extent applicable to a corporate debtor	Likely dischargeable (not a criminal fine)
Gov. Code, § 76000(b)	County Penalty for Parking Offense	(PENALTY) For every parking offense where a parking penalty, fine, or forfeiture is imposed, an added penalty of \$2.50 included.	Non-dischargeable	Likely not applicable to a corporate debtor	Likely dischargeable (not a criminal fine)
Gov. Code, § 76000.3	Parking Violation Penalty	(PENALTY) For each parking offense where a parking penalty, fine, or forfeiture is imposed, an added penalty of \$3 shall be imposed.	Non-dischargeable	Likely not applicable to a corporate debtor	Likely dischargeable (not a criminal fine)
Gov. Code, § 76000.5	Emergency Medical Services Additional Penalty	(PENALTY) Penalty assessment of \$2 for every \$10 or part thereof upon every fine, penalty, or forfeiture imposed and collected by the courts for criminal offenses and Vehicle Code violations. In another context, this has specifically been held to be punitive. (See <i>People v. Soto</i> (2016) 245 Cal.App.4th 1219.)	Non-dischargeable	Likely not applicable to a corporate debtor	Likely dischargeable (not a criminal fine)

<p>Gov. Code, § 76000.10(c)</p>	<p>Emergency Medical Air Transport Penalty</p>	<p>(CALLED A “PENALTY” BUT SHOULD LIKELY BE TREATED AS A FEE FOR BANKRUPTCY PURPOSES) Called a penalty but functions as a flat \$4 fee imposed upon every conviction for a violation of the Vehicle Code or a local ordinance adopted pursuant to the Vehicle Code, except parking offenses.</p>	<p>Dischargeable</p>	<p>Likely not applicable to a corporate debtor</p>	<p>Dischargeable</p>
<p>Gov. Code, § 76104.6</p>	<p>DNA Penalty Assessment</p>	<p>(PENALTY) Penalty assessment of \$1 for every \$10 or part thereof upon every fine, penalty, or forfeiture imposed and collected by the courts for all criminal offenses, including all offenses involving a violation of the Vehicle Code or a local ordinance adopted pursuant to the Vehicle Code. In another context, this has been held to be a “penalty” because it “is explicitly designated a penalty; it is calculated in direct proportion to other fines, penalties, and forfeitures imposed; it is collected using the same provision for collecting the state penalty assessment; and</p>	<p>Non-dischargeable</p>	<p>Dischargeable to the extent applicable to a corporate debtor</p>	<p>Likely dischargeable (not a criminal fine)</p>

		it will be used primarily for future law enforcement purposes.” (<i>People v. Batman</i> (2008) 159 Cal.App.4th 587, 591.)			
Gov. Code, § 76104.7	Additional State-Only DNA Penalty Assessment	(PENALTY) \$4 for every \$10 or part thereof of the base fine. In another context, this has specifically been held to be punitive. (See <i>People v. Soto</i> (2016) 245 Cal.App.4th 1219.)	Non-dischargeable	Dischargeable to the extent applicable to a corporate debtor	Likely dischargeable (not a criminal fine)
VEHICLE CODE					
Veh. Code, § 11208(c)	Traffic Violator School Administrative Fee	(FEE) Administrative fee in an amount sufficient to defray cost of routine monitoring of traffic violator school instruction assessed against each driver allowed or ordered to attend traffic violator school.	Dischargeable	Likely not applicable to a corporate debtor	Dischargeable
Veh. Code, § 23645	Alcohol Abuse Education and Prevention Penalty Assessment	(PENALTY) Penalty assessment not to exceed \$50, for any person convicted of a violation of Section 23152 or 23153.	Non-dischargeable ³	Likely not applicable to a corporate debtor	Dischargeable (not a criminal fine)
Veh. Code, § 23649(a)	Alcohol Abuse & Prevention Penalty Assessment	(PENALTY) Penalty assessment not to exceed \$100, upon every fine, penalty, or forfeiture imposed and collected by the	Non-dischargeable	Likely not applicable to a corporate debtor	Dischargeable (not a criminal fine)

³ It appears that at least one court does not currently “write off” this assessment when notified of a Chapter 7 filing but certain other courts do.

		courts for a violation of Section 23152 or 23153 in any judicial district that participates in a county alcohol and drug problem assessment program.			
Veh. Code, § 27360.6	Child Safety Restraint Fine	(FINE) \$100 for first offense; \$250 fine for second offense.	Non-dischargeable	Likely not applicable to a corporate debtor	Non-dischargeable
Veh. Code, § 40508.6	DMV Prior Conviction Administrative Assessment	(ASSESSMENT) Administrative assessment not to exceed \$10 for clerical and administrative costs.	Dischargeable	Likely not applicable to a corporate debtor	Dischargeable
Veh. Code, § 40510.5(g)	Installment Payment Administrative Fee	(FEE) Fee not to exceed \$35.	Dischargeable	Dischargeable to the extent applicable to a corporate debtor	Dischargeable
Veh. Code, § 42006	Night Court Assessment	(ASSESSMENT) Assessment that acts as a flat \$1 fee.	Dischargeable ⁴	Dischargeable to the extent applicable to a corporate debtor	Dischargeable
Veh. Code, §§ 42007, 42007.1	Uniform Fee for Traffic Violator School	(FEE) Fee equal to total bail plus a \$49 fee, and a fee sufficient to defray cost of routine monitoring of traffic violator school instruction, and a fee, if any, to defray costs incurred by traffic assistance program.	Dischargeable	Likely not applicable to a corporate debtor	Dischargeable
HEALTH & SAFETY CODE					
Health & Saf. Code, § 11372.5	Criminal Lab Analysis Fee	(CALLED A FEE BUT SHOULD LIKELY BE TREATED AS A FINE/	Non-dischargeable	Dischargeable to the extent applicable to a corporate debtor	Non-dischargeable

⁴ It appears that at least one court does not currently “write off” this assessment when notified of a Chapter 7 filing but other courts do.

		<p>PENALTY FOR BANKRUPTCY PURPOSES)</p> <p>Flat fee of \$50 per offense. Though called a “fee,” in another context the Supreme Court held that language of statute and legislative history show that the Legislature intended it to be a punishment, and it is akin to a fine or penalty. The Supreme Court also held that the “main purpose” of the statute is not to offset government expense for programs. (See <i>People v. Ruiz</i> (2018) 4 Cal.5th 1100, 417 P.3d 191.)</p>			
<p>Health & Saf. Code, § 11372.7</p>	<p>Drug Program Fee</p>	<p>(CALLED A FEE BUT SHOULD LIKELY BE TREATED AS A FINE/ PENALTY FOR BANKRUPTCY PURPOSES)</p> <p>Fee of up to \$150 per offense with an ability to pay exception. Though called a “fee,” in another context the Supreme Court held that language of statute and legislative history show that the Legislature intended it to be a punishment, and it is akin to a fine or penalty. The</p>	<p>Non-dischargeable</p>	<p>Likely not applicable to a corporate debtor</p>	<p>Non-dischargeable</p>

		Supreme Court also held that the “main purpose” of the statute is not to offset government expense for programs. (See <i>People v. Ruiz</i> (2018) 4 Cal.5th 1100, 417 P.3d 191.)			
--	--	---	--	--	--