

CHAPTER 8 TAX SALES
An Overview



Presented by
The State Controller's Office
Hanford, CA October, 2016

Introduction

This presentation will provide an overview of the Chapter 8 Tax Sale.

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A Few Facts About Completed Chapter 8 Tax Sale Agreements

- In the last five years, the greatest number of approved tax sales occurred in 2015 (54) followed by 2014 (35).
- Of the total tax sale agreements (89) in 2014 and 2015, the Central Valley Area counties represented only two (2) of the total.
- Use as open space represented over one-third of the total Chapter 8 agreement sales during the January 2014 to December 2015 period.

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Chapter 8 Tax Sale

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Overview

The Chapter 8 Tax Sale is designed to allow eligible Taxing agency or nonprofit organizations the opportunity to purchase tax-defaulted property by way of a formal purchase agreement with the county.

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Overview

At any time after the tax collector records a Notice of Power to Sell for a tax-defaulted property pursuant to section 3691, any eligible taxing agency, revenue district, city, special district, or nonprofit organization may submit a proposal to purchase the property (§3773).

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Eligible Purchasing Entities

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Identifying the Purchasing Entity

Two qualifying purchaser categories:

- **Taxing agency:** State, counties, cities, taxing agencies, revenue districts, special districts, and other state agencies.
- **Nonprofit organization:** An entity that has been incorporated for the express purpose of acquiring property pursuant to Revenue and Taxation Code §3772.5

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Identifying the Purchasing Entity

Further definition:

- **Taxing agency:** "Taxing agency" includes the State, county, and city. "Taxing agency" also includes every district that **assesses property for taxation purposes and levies taxes or assessments on the property so assessed** (§121).
- **Revenue district:** "revenue district" includes every city and district **for which the county officers assess property and collect taxes or assessments** (§122).

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Specific Purpose for Purchase

Eligible reasons and specific uses allowed for the purchase of tax defaulted property by Chapter 8 Tax Sale Agreement subject to the tax collector's power to sell are defined in statute.

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Specific Purpose for Purchase

Taxing Agency:

- Preservation of a tax lien
- For a public use

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Purchasing Options Taxing Agency

Eligible Taxing agencies may:

- Purchase all or any portion of tax-defaulted property
- Purchase a right-of-way or other easement
- Purchase multiple parcels, with one purchase agreement
- Request an option to purchase tax-defaulted properties (limited to a period of three years)

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Specific Purpose for Purchase

Nonprofit Organization

Pursuant to RTC §3791.4, a nonprofit organization may purchase property for:

- Rehabilitating residential property to sell or rent to low income persons
- Constructing housing on the property to sell or rent to low income persons
- Dedicating vacant land for a public use
- Use of property to serve low income persons

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Purchasing Options Nonprofit Organization

Eligible nonprofits may:

- Purchase multiple parcels with one purchase agreement
- Pay for the property in installments, with the approval of the board of supervisors

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Beginning the Agreement Process

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Initial Step to Begin Process Taxing Agency

Scenario: property approved for a scheduled Chapter 7 tax sale

Purchase property to **preserve a tax lien:**

- Purchase application and objection.
- Description of the property.
- Resolution from governing board objecting to the sale and authorizing purchase

Note that a revenue district must purchase the property in order to preserve its lien.

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Initial Step to Begin Process Taxing Agency

Scenario: property approved for a scheduled Chapter 7 tax sale

Purchase property **for a public use:**

- Application and objection prior to first publication or posting of the notice of intended sale.
- Description of property.
- Description of public purpose.
- Resolution from the governing board objecting to the sale and authorizing the purchase

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Initial Step to Begin Process Taxing Agency

Scenario: property is **not** scheduled for a Chapter 7 tax sale

Purchase property **for a public use:**

- Application.
- Description of the property.
- Description of proposed use.
- Resolution from governing board approving the purchase.

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Initial Step to Begin Process Nonprofit Organization

Scenario: property approved for a scheduled Chapter 7 tax sale

- Application and objection prior to the first publication or posting of the notice of intended sale.
- Description of the property.
- Proposed use of property.
- Resolution by governing board objecting to the sale and authorizing the purchase.

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Initial Step to Begin Process Nonprofit Organization

Scenario: property is **not** scheduled for a Chapter 7 tax sale

- Application
- Description of the property
- Proposed use of the property
- Resolution by governing board authorizing purchase.

Note: A request for additional information such as articles of incorporation and a detailed description of the project should follow the initial review of the application.

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Significant Factors Timeline

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Pre-Sale Authorization
(Board of Supervisors and the State Controller)

Action	Days prior to SCO Approval
Review the Purchase Proposal Application	35 - 20 days
Prepare the Request for Approval from the Board of Supervisors	25 - 15 days
Submit the Approval Request to the Board of Supervisors	20 - 10 days
Prepare the Request for the State Controller's Office Authorization	10 - 5 days
Submit the Request for the State Controller's Authorization	Allow 45 days for authorization

Statutory Requirements for Processing Sale

Action	Days prior to...
Search for Parties of Interest	40-30 days prior to mailing the <i>Notice to Parties of Interest</i>
Notify Parties of Interest	45-60 days* prior to the effective date of sale
Notify Assessee by Personal Contact	Not less than 10 days* prior to sale
Notify the IRS	Not less than 25 days* prior to sale
Publish/Post the Notice of Sale	Not less than 21 days* prior to sale
Agreement Sale Becomes Effective	No sooner than 21 st day* after 1st pub. of <i>Notice of Agreement</i>

Post-Sale Statutory Requirements

Actions	Required timing
Execute a Deed to the Purchaser	Immediately* after receiving the full purchase price at the sale
Record the Deed with the County Recorder	Immediately* after executing the deed to the purchaser
Report to the County Treasurer and the County Auditor	Immediately* after depositing the money received from the sale
Report to the Assessor	Not less than 30 days* after sale
Mail the Notice of Excess Proceeds	Not less than 90 days* after sale
Publish the Notice of Excess Proceeds (Only if the last known address of a party of interest cannot be obtained)	Not less than 90 days* after the sale
Distribute the Excess Proceeds	No sooner than 1 year* following recordation of tax collector's deed to the purchaser

Initial Application and Parcel Review

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Purchase Eligibility Review Existing Parcel Conditions

Ensure that the parcel has no existing condition that would disqualify it from the Chapter 8 Tax Sale.

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Purchase Eligibility Review Existing Parcel Conditions

- **Bankruptcy**
- **Contaminated Property**
- Damaged Property
- Cemetery Property
- Unprobated Property

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Purchase Eligibility Review Disqualifying Property Conditions

- Property with an indefinite or improper description
- **Super Fund Property**
- **Property belonging to a Public Agency or Public Utility**
- Property Exempted under the Service Member's Civil Relief Act
- California Veteran's Land (CalVet Property)

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Purchase Eligibility Review Disqualifying Property Conditions

- Property assessed to an individual not responsible for their affairs
- **Indian Allotment Land**
- Unpatented property
- Bankruptcy
- **Unprobated property**

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Development of Agreement Packet for Approval

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Information and Document Gathering Taxing Agency

Information and documents that a county will need to gather or determine include:

- Power to sell
- Purchase resolution from governing board
- Well defined description of the public purpose
- Effective date of the agreement
- **Parties of interest**
- **Agreement terms and conditions**

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Information and Document Gathering Nonprofit Organization

Information and documents that a county will need to gather include:

- Power to sell
- Purchase resolution from governing board
- **Detailed description of proposed project**
- **Detailed description of low income persons the project will serve**
- **Confirmation that proposed use is allowed on property**

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Information and Document Gathering Nonprofit Organization (cont.)

- Articles of incorporation
- Compliance confirmation
- **Terms and conditions** of project (minimum price pursuant to RTC 3793.1, agreed effective date of sale, performance dates for project milestones and project completion, other)

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Information and Document Gathering Draft Terms and Conditions

The following slides are examples of **DRAFT** terms and conditions that will be provided on the updated State Controller's Office sample agreement form (Nonprofit).

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Information and Document Gathering Draft Terms and Conditions

Use of Residential Property. In the case of residential property, PURCHASER (the nonprofit organization) shall rehabilitate and sell or rent to, or otherwise use the property to serve, low-income persons. **The property may not be transferred, sold, leased, rented, or made use of by persons who do not qualify as low income persons as defined by Health and Safety Code section 50093.**

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Information and Document Gathering Draft Terms and Conditions

Use of Vacant Property. In the case of vacant property, PURCHASER (the nonprofit organization) shall construct residential dwellings on the property and sell or rent the property to low-income persons, otherwise use the property to serve low-income persons, or dedicate the vacant property to public use. **The property may not be transferred, sold, leased, rented, or made use of by persons who do not qualify as low income persons as defined by Health and Safety Code section 50093.**

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Information and Document Gathering Draft Terms and Conditions

Time to Completion. The PURCHASER agrees to complete the rehabilitation or construction of residential dwellings on the property and sale within a reasonable period of time and the maximum benefit to low-income persons. The reasonable period of time for completion determined by the PURCHASER and the SELLER is specified in Exhibit '___'.

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Information and Document Gathering Draft Terms and Conditions

Progress Updates. The PURCHASER shall report back to the (county) Board of Supervisors regarding the progress of the low-income housing project at the following intervals:

- When building construction or rehabilitation begins;
- If rehabilitation or construction of residential dwellings on the property will not be completed by the agreed upon timeline and a modification of the rehabilitation/construction timeline is needed;

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Information and Document Gathering Draft Terms and Conditions

- When the property is leased with documentation that the leasee is qualified for low-income housing;
- When the property is sold with documentation for the sale of the home including:
 - o That the home was sold to a qualified low-income person(s),
 - o That the sale price of the house is in compliance with the accepted maximum estimated sales prices established by the United States Department of Housing and Urban Development for low-income household incomes pursuant to Health and Safety Code section 50093.

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Information and Document Gathering An Added Check

Consider consulting county counsel as an additional measure to verify whether a Taxing agency or nonprofit organization is qualified to purchase the property in question through the Chapter 8 Tax Sale Agreement process.

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The Agreement

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Purchase Agreement Taxing Agency or Nonprofit

The purchase agreement should contain these elements:

- Date
- Name of the Purchasing Agency
- Property Description
- Purchase Amount
- Purpose of acquisition
- Terms and Conditions
- Purchase Resolution
- **All required signatories to the agreement**

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Requesting Board of Supervisors' Approval

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Requesting Approval from the Board of Supervisors

The County Board of Supervisors must approve the agreement.

Include in the request package the following items:

- A copy of the agreement for signature.
- All supporting documents.

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State Controller's Office Review and Authorization

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State Controller's Authorization Agreement Approved

The following documents and information must be submitted to the State Controller's Office for review:

- Power to sell for each property
- Application
- **Objection, if required**
- Agreement
- Description of property and description of project
- Purchaser's resolution
- Board of supervisors' resolution
- **Chapter 7 resolution, if required**
- **Chapter 7 publication, if required**

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State Controller's Authorization Agreement Approved

For agreements with a nonprofit

Additional documents that must be submitted to the State Controller's Office for review:

- Articles of Incorporation
- A listing of each parcel and its intended use (RTC §3772.5, §3695.5)

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State Controller's Authorization Agreement Approved

Following review by the State Controller's Office:

- Original application packet returned to the county in addition to the following:
 - The agreement contract, signed, and affixed with the State Controller's seal.
 - Written authorization from the State Controller and direction to continue with the sale process.

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State Controller's Authorization Agreement Not Approved

If the State Controller does not approve the agreement:

- The agreement will be returned **to each party** with a statement of objections to it.
- A new or modified agreement may be made (resubmittal). (§3795).

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Notification of the Agreement

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Statutory Requirements for Processing Sale

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Search for Parties of Interest	40-30 days prior to mailing the <i>Notice to Parties of Interest</i>
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Notify the IRS	Not less than 25 days* prior to sale
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Statutory Requirements Publishing/Posting Notice of Sale

- Published once a week for three successive weeks in a newspaper published in the county where the property to be sold is located.
- If no newspaper is published in the county seat or in the judicial district, a notice may be posted in three public places (§3798).

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Redemption Prior to the Sale

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Redemption

- The right to redeem the property terminates at the date and time the agreement becomes effective (§3803).
- If the parcel or any portion of the parcel is redeemed before the agreement becomes effective, the agreement is null as to the property redeemed (§3803).
- If a payment for redemption is received by mail and the postmark date on the envelope is the same as or prior to the date the agreement becomes effective, payment must be accepted as a valid redemption and the sale of whichever parcel redeemed is null (§§2512, 3803).

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Other Conditions

There are additional factors such as a court ordered injunction that may require withdrawing property from the agreement sale. Please refer to the procedural manual for a discussion of these conditions.

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Effective Date of the Sale

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Effective Date of the Sale

The agreement sale becomes effective, by operation of law, no sooner than 5:01 p.m. on the 21st day after the date of the first published or posted Notice of Agreement (§3802).

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After the Sale

Post-Sale Statutory Requirements

Actions	Required timing
Execute a Deed to the Purchaser	Immediately* after receiving the full purchase price at the sale
Record the Deed with the County Recorder	Immediately* after executing the deed to the purchaser
Report to the County Treasurer and the County Auditor	Immediately* after depositing the money received from the sale
Report to the Assessor	Not less than 30 days* after sale
Mail the Notice of Excess Proceeds	No later than 90 days* after sale
Publish the Notice of Excess Proceeds (Only if the last known address of a party of interest cannot be obtained)	No later than 90 days* after the sale
Distribute the Excess Proceeds	No sooner than 1 year* following recordation of tax collector's deed to the purchaser

Contact Information

Sharon Parker, Program Analyst
(916) 324-1713
SLParker@sco.ca.gov

County Tax Sale Procedural Manual:
http://www.sco.ca.gov/ardtax_tcs_taxguide.html

For general inquires please email propertytax@sco.ca.gov

Questions

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End

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Revenue and Taxation Code section 158

The Controller has general supervision over the general procedure for tax sales, tax deeds, and redemptions and, to this end, may make any rules and regulations he deems advisable. All county officials are bound by these rules and regulations of the Controller.

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Revenue and Taxation Code section 30300

The State Controller shall instruct, advise, and direct tax collectors as to their duties under the laws. He may obtain the opinion of the Attorney General upon any questions of law relating to such actions in such cases as he deems necessary.

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Revenue and Taxation Code section 30301

The State Controller shall prescribe tax levying and collecting procedures under this division. The procedures, which shall include the prescription and use of forms, shall be adopted under the provisions of Chapter 4.5 (commencing with Section 11371) of Part 1, Division 3, Title 2 of the Government Code and published in the California Administrative Code. **The State Controller shall prescribe such procedures only after consultation with the Committee on County Tax Collecting Procedures.**

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Helpful Links

HUD Definition of Consolidated Plan

- http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/about/conplan

HUD approved California State & Local Consolidated Plan listings and links

- http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/about/conplan/local/ca

HUD Section 8 Housing Income Limits

- <http://www.huduser.gov/portal/datasets/il/il15/index.html>

IRS Notice of Nonjudicial Sale of Property (instructions and form)

- <http://www.irs.gov/pub/irs-pdf/p786.pdf>

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