

CHAPTER 7 TAX SALES

Public Auction, Sealed Bid Sale, Internet Auction



Presented by
The State Controller's Office
Burlingame, CA October, 2015

Introduction

This presentation will outline the Chapter 7 tax-defaulted land sale process to include: preparing for the sale, the notification process, conducting the sale and concluding the process.

Base on information from the County Tax Sale Procedural Manual and Los Angeles County.

Chapter 7 Tax Sales

Why have a Chapter 7 Tax Sale?

- Collect unpaid taxes
- Return the property to a revenue generating status by conveying the property to another owner
- It is the Law, Revenue and Taxation Code sections 3691, 3692

PREPARING FOR THE SALE

(Public, Internet, or Sealed Bid)

Beginning the Process

180-120 days prior to the sale

Organization is key

- Parcel file
- Auction file

Preparing the List of Parcels to be Offered for Sale

170-105 days prior to the sale

Important

- Monitor your list of parcels
- Be on the look out for disqualifying conditions

Determining Parcel Descriptions, Exemptions, and Tax Sale History

155-90 days prior to the sale

- Property description
- Existing exemptions/situs (public and internet)
 - Homeowners/Welfare
- Tax sale history

Establishing the Minimum Selling Price for Public and Internet Auctions

140-80 days prior to the sale

Three categories:

- **Category A:** Parcels that **have not** been previously offered at a tax sale, including parcels pulled from a sale, and **do not** have a welfare exemption.
- **Category B:** Parcels that **have** been offered at a tax sale previously and not sold.
- **Category C:** Parcels that **have not** been previously offered at a tax sale and **do** have a welfare exemption.

Establishing the Minimum Selling Price for Sealed Bid Sales

- At the Tax Collector's discretion

Requesting Approval from the Board of Supervisors

Board approval must be obtained **at least 45 days prior to the sale.**

- 120 days for the full benefit of the entire statutory time allowed

Notice to Nonprofits and Taxing Agencies

Not less than 51 days prior to the sale

- Taxing agencies must be notified at least 30 days prior to the date set for first publication or posted notice
- Nonprofits may request notification within one year prior to the next scheduled tax sale or prior to July 31 of the current calendar year (§3700)
- A taxing agency may object to the sale of a parcel when it wants to either purchase the parcel for a public purpose or preserve a lien.

Objections to the Sale

- Taxing Agency that is not also a revenue district
- Taxing agency that is also a revenue district
- Nonprofit organization

Types of Objections

- Objection Solely to Preserve a Lien
- Objection to Purchase a Parcel as an Option to Preserve a Lien
- Objection to Purchase a Parcel as a Requirement to Preserve a Lien
- Objection to Purchase a Parcel for Public Use
- Objection to Purchase a Parcel for Low-Income Use or Public Use

Notification of Sale to the State Controller

Not less than 45 days nor more than 120 days prior to the sale

Betty T. Yee, California State Controller

Division of Accounting and Reporting

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- Sale postponed for any reason, the tax collector must notify the State Controller's Office

Searching for Parties of Interest

Parties of interest

- Last known assessee
- Lienholders of record and any persons with title of record to all or any portion of the property prior to the recordation of the tax deed to the purchaser (§ 4675)
- Reasonable effort

Searching for Parties of Interest Cont.

Methods for searching for parties of interest

- Research Consultant
- Title Company
- In-house Research

Notice to Parties of Interest

Not less than 45 days nor more than 120 prior to the sale

Prepare the notice

- The notice must contain the following information, pursuant to §3701:
 - The date, time, and location of the sale;
 - The amount required to redeem the property;
 - The fact that the property can be redeemed up to the close of the last business day prior to the sale;
 - Information regarding rights of parties of interest to claim excess proceeds.

Notice to Assessee by Personal Contact (Public and Internet Auctions Only)

- Owner-occupied property
- Must make *reasonable effort* to contact
- 10 to 20 days prior to the sale (§ 3704.7)
- If unable to make personal contact, serve written notice 5 days prior to the date of the sale (§ 3704.7)
- Cost to make personal contact may be included in the redemption amount

Notice to the Internal Revenue Service

Not less than 25 days prior to the sale

If an IRS lien has been discovered, the IRS must receive notice at least 25 days prior to the sale date

- IRS Form 14497, *Notice of Nonjudicial Sale of Property*

Determining and Notifying Eligible Bidders (Sealed Bid Sale Only)

Eligibility is limited to individuals or entities that meet one of the following conditions for each parcel (§ 3692(b-c)):

- Owns land contiguous to a particular parcel.
- Owns land contiguous to or surface rights to a particular parcel that has oil, gas, or mineral rights for sale.
- Is the holder of record of either a predominant easement or a right-of-way easement.

Publishing/ Posting the Notice of Sale

120-21 days prior to the sale

- Once a week for three successive weeks
- At least 21 days prior to the sale date
- Notice may be posted in three public places if there is no newspaper published in the county seat or in the judicial district in which the property is situated (§ 3702)

Contents of the Published Notice

- Type of sale, date, time and location of the sale
- Assessor's Parcel Number
- Name of last assessee
- Minimum acceptable bid
- Other mandated statements

Redemption and Other Issues Prior to the Sale

- Injunction
- Redemption or partial redemption
- Objection to the sale
- Bankruptcy
- Parcels withdrawn for any other reason

Postponement of the Sale

- The tax collector can postpone all or a portion of the sale for up to 90 days (§3706.1).

CONDUCTING THE AUCTION

General Considerations Public vs. Internet

- Number of parcels
- Types of parcels
- Parcel information
- Pre-sale deposit
- Minimum bidding components (internet)
- Cost of the sale
- Sale schedule (preview of sale, duration of sale, sale ending time)

Information for Prospective Bidders

- List of properties or a copy of published notice
- Terms and conditions page
- Information sheet/FAQ
- Parcels with potential toxic waste
- Parcels with delinquent bonds
- Parcels which taxing agencies/nonprofits have objected to

Bidding Procedures

- Identify the parcel
- Parcel disposition
- Open the floor to bidding
- Re-offering a parcel at a lower bid amount
- Recording the bids

CONDUCTING THE SEALED BID SALE

General Considerations

- Staffing
- Forum
- Reading the bids
- Tracking the proceeding
- Notifying successful bidders

AFTER THE SALE

Conclusion of Sale – Public Auction

- Re-offer all unsold parcels
 - Same minimum bid amount, or
 - A lesser amount at the discretion of the tax collector
- Continuance of sale to following day
 - If the sale is going to take two or more days
- Announce new sale date
 - If you plan on offering unsold property for sale within 90 days (postponement)

Consummating the Sale

- Vesting information
- Transfer Tax
- Payment
 - Voided sales
- Receipt

Recording the Deed and Depositing Proceeds

- Deed transaction and recording (§ § 3708, 3708.1)
- Deposit of proceeds (§ 3719)
- Returned check/failure to complete purchase (§ 3455)
- Statute of Limitations (§ 3725)

Post-Sale Reports

0-30 days after the sale

- **Treasurer and Auditor**(report immediately)(§3718)
 - Cost of advertising
 - Sale price for each parcel
 - Cost of recording the deeds
 - Amount of transfer tax
 - State and County fees
- **Assessor** (report within 30 days)(§3716)
 - Name of purchaser
 - Date the property was sold
 - Sale Price
 - Description of the property

Excess Proceeds Notification

0-90 days after the sale

- Notification (§ 4676(b))
- Publication (§ 4676(c))
- Eligibility (§ 4675(e))
- Claim request processing (§ 4675)

Contact Information

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For general inquiries for the State Controller's Office
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Questions