

IN THE BOARD OF SUPERVISORS
COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA

Tuesday, April 3, 2012

PRESENT: Supervisors

ABSENT:

RESOLUTION NO. _____

**RESOLUTION TO DELEGATE BOARD OF SUPERVISORS' AUTHORITY
TO THE COUNTY TAX COLLECTOR TO PERFORM ON THE BOARD'S BEHALF
ANY OF THE BOARD REQUIRED OR AUTHORIZED RESPONSIBILITIES
FOR APPROVING THE DISTRIBUTION OF EXCESS PROCEEDS TO CLAIMANTS
FROM TAX SALES PURSUANT TO CALIFORNIA REVENUE AND TAXATION
CODE SECTION 4675**

The following resolution is hereby offered and read:

WHEREAS, California Revenue and Taxation Code Section 4675 provides that any party of interest in the property may file with the County a claim for the excess proceeds, in proportion to his or her interest held with others of equal priority in the property at the time of sale, at any time prior to the expiration of one year following the recordation of the Tax Collector's deed to the purchaser; and

WHEREAS, California Revenue and Taxation Code Section 4675(e) provides that one year following the recordation of the County Tax Collector's deed to the purchaser the excess proceeds which have been claimed by any party of interest shall be distributed on order of the Board of Supervisors in the order of priority set forth in California Revenue and Taxation Code Section 4675; and

WHEREAS, California Revenue and Taxation Code Section 4675.1 provides that the Board of Supervisors may, by resolution, authorize any county officers [such as the Tax Collector] to order the distribution of excess proceeds to the parties of interest who have claimed the excess proceeds and to perform on the Board's behalf any act required or authorized to be performed under California Revenue and Taxation Code Section 4675. The resolution shall include the approval of the procedures set forth to distribute the excess proceeds and the requirement that the County Auditor will record each act performed under the authorization; and

WHEREAS, the County's interests would best be served by delegating authority to the County Tax Collector to order the distribution of excess proceeds to claimants without further action by the Board of Supervisors.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED by the Board of Supervisors of the County of San Luis Obispo, State of California, as follows:

1. That the recitals set forth hereinabove are true, correct, and valid.
2. That authority is hereby delegated to the County Tax Collector to perform on the Board's behalf any act required or authorized to be performed under California Revenue and Taxation Code Section 4675(e), to order the distribution of excess proceeds to claimants through the approved administrative procedures that are set forth in Appendix A attached hereto and incorporated by reference herein as though set forth in full.
3. That the County Auditor-Controller record each act performed under the authorization.
4. That the decision of the County Tax Collector shall be final unless appealed in writing to the Board of Supervisors within ten days of the decision.

BE IT FURTHER RESOLVED AND ORDERED that the resolution shall take effect immediately upon its passage and continue until amended or repealed by this Board.

Upon motion of Supervisor _____, seconded by Supervisor _____, and on the following roll call, to wit:

AYES:

NOES:

ABSENT:

ABSTAINING:

the foregoing resolution is hereby adopted.

Chairperson of the Board of Supervisors

ATTEST:

Appendix A

Frank L. Freitas, CPA
San Luis Obispo County Treasurer ♦ Tax Collector ♦ Public Administrator
(Excess Proceeds)

ISSUED BY: Tax Collector, Redemption

DATE: Revised, July 2011

SUBJECT: Tax Sale – Excess Proceeds

PURPOSE: To assure correct and timely distribution of excess proceeds from the sale of tax defaulted properties.

POLICY: To complete the notification of right to claim excess proceeds in accordance with the Revenue and Taxation Code time limits. To process completed Claims for Excess Proceeds in a timely and accurate manner. To distribute Excess Proceeds to Parties of Interest according to the percentages established by the Assessor's Office.

REFERENCES: California Revenue and Taxation Code Sections 4674, 4675. State Controller's Tax Collector Reference Manuals.

SOURCES: Tax Sale Report of Sale, Notice of Excess Proceeds, Completed claims for Excess Proceeds, Assessor's Memo.

BACKGROUND: On some tax sale properties, excess proceeds may exist after application of sale proceeds to costs and outstanding taxes (delinquent and current) that are eligible to be claimed by Parties of Interest. In order to claim excess proceeds the amount of excess proceeds must be greater than \$150.00 after the taxes, cost of conducting the sale, and other fees are paid. Under Revenue and Taxation Code section 4675, the excess proceeds are to be distributed to the "parties of interest" in the properties.

PROCEDURE:

- 1) Notify Parties of Interest of their right to claim excess Proceeds.
 - a) No later than 90 days following the tax sale, send by certified mail (with return receipt) a claim form for excess proceeds to "parties of interest" (POIs) as defined in Revenue and Taxation Code section 4675 (a) and (b) for all tax sale properties where the amount of excess proceeds is greater than \$150.00. The POIs can be found in the Access system for each assessment.
 - i) Enclose also a cover letter.
 - ii) Enclose also "Instructions for Filing Claim," and a **yellow** return envelope.

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NOTE: POI's must be notified that their claims must be submitted no later than one year from the date the tax deeds are executed. Make sure that date is accurate on the claim form and cover letter.

- b) No later than 90 days following the tax sale, a Notice of Excess Proceeds must be published in the local newspaper (usually the Tribune), listing all the POIs only if there are parties for which the Notice of Excess Proceeds sent by certified mail was returned as undeliverable.
- 2) No later than 90 days following the tax sale, a Notice of Excess Proceeds must be published in the local newspaper (usually the Tribune), listing all the POIs for all tax sale properties where the amount of excess proceeds is greater than \$150.00.
- 3) Start Excess Proceeds file, and print the control sheet from the Tax Sale System listing: the sale number, date of sale, and the date the tax deeds were executed.
- 4) The claim forms must be submitted no later than one year from the date the tax deeds are executed. They must be accompanied by documents supporting the claimant's right to receive proceeds. Approximately two months prior to the deadline:
 - i) Review claims for entitlement to proceeds. Awards are generally on a "first in time, first in right" basis, with regard to recording. Assessee generally receive proceeds left over after all lien holders are paid. If there is a complicated issue, submit the claim to County Counsel for an opinion.
 - (1) It is rare that County Counsel is asked for an opinion regarding the eligibility, but any claims that have been sent to County Counsel for opinion must be resolved prior to the memo being sent to the Assessor's Office.
 - (2) Follow-up on the complicated issues to ensure that the issues have been resolved.
 - ii) Check to see that the supporting documents are included with the claims. If the supporting documents are lacking, call the claimant to request that they provide the documentation needed. If they do not provide the documentation, their claim may be denied.
- 5) Once the deadline has passed: Complete the Table of Claims and Awards and cover letter for the Assessor's Office.
 - a) Complete the Spreadsheet titled, "CLAIMS FOR EXCESS PROCEEDS FROM (insert tax sale # and type), DEEDS RECORDED (insert date deeds recorded), RECOMMENDED DISTRIBUTION. A template is found at L:\Tax\Secured\Redemption\Tax Sales\Forms and Templates.
 - i) Enter the Assessment Number and the amount of Excess Proceeds available to claim.

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- ii) Enter the Claimants' name and address per assessment, and the amount each is claiming. This amount may be greater than the amount of excess proceeds available, based upon the amount of the lien or trust deed.
 - iii) Enter information regarding the type of supporting documentation received and the proposed percentage of excess proceeds that this document entitled the claimant to. (For example a grant deed vesting 50% of the ownership to the parcel would entitle the claimant to 50% of the excess proceeds. A trust deed for more than the total amount of excess proceeds available would entitle the claimant to 100% of the excess proceeds available.)
 - iv) Enter the recording information for the supporting documentation which has been received.
 - v) Enter the amount that the Tax Collector's Office is proposing to distribute to each claimant.
 - vi) Enter the amount to be distributed to each claimant after the fees for noticing POI's is deducted.
- b) Complete the enclosure memo titled, "Enclosure Letter (Insert tax sale # and type). A template is found at L:\Tax\Secured\Redemption\Tax Sales\Forms and Templates.
- i) Enter the date of sale.
 - ii) Enter the date tax deeds recorded.
 - iii) List the properties for which claims have been received.
 - iv) Reference the Spreadsheet as Exhibit A.
 - v) Give date the claims and supporting documentation must be reviewed by. This date should give enough time for the Assessor's review, but must also allow for the timely processing of claims. No more than 3 weeks from the date the memo is sent.
- 6) Forward the Table, together with copies of the claims and supporting documents, on to the Assessor for confirmation as to ownership interest and investigation as to priority of liens and sufficiency of supporting documents. Include any County Counsel opinions. **DO NOT FORWARD CLAIMS BY THE FEDERAL GOVERNMENT OR STATE** to the Assessor. If the Assessor's Office agrees to the recommended distribution, a memorandum confirming approval will be sent to our office.
- 7) When the confirmation is received from the Assessor complete a memorandum to the Auditor's Office requesting distribution of excess proceeds to Claimants from the tax sale and prepare the Journal Entry distributing fees and unclaimed excess proceeds.
- a) Prepare memo to the Auditor outlining distribution of proceeds and fees.

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- i) Include the Assessor's confirmation and the memo of recommended distribution from the Tax Collector's Office, which includes the claimants mailing addresses.
 - ii) Outline the total amount of excess proceeds from tax sales,
 - iii) The amount of excess proceeds awarded to claimants,
 - iv) The fees for notifying POI's,
 - v) And the amount of unclaimed excess proceeds.
 - vi) The total on the Auditor's memo must equal the amount of monies deposited to the Excess Proceeds Trust Fund for the referenced tax sales.
- b) Prepare the Journal Entry distributing fees and unclaimed excess proceeds.
- NOTE: The "Claims Processing Cost Reimbursement" (R & T Code 4674 – currently charged per assessment subject to claims) is prorated between the Tax Collector, the Assessor and the Auditor. It is a statutory allowance and is not part of the Department budget. Therefore, the prorated amount must be recalculated each year. (Use worksheet at: L:\BUDGET\Fees\2011\2011-12 Excess Proc Fee Claims Proc.xls)
- i) Call the Auditor and Assessor's office to confirm the account numbers for the journal entry.
 - ii) A copy of the Journal Entry is also forwarded to the Assessor's Office.
- 8) The Auditor's Office will prepare warrants for the awarded claims and notify the Tax Collector's Office once the warrants are available for pickup.
- 9) The Tax Collector's Office will mail the warrant to the POI's with a copy of their claim for excess proceeds and a cover letter.
- 10) The decision of the County Tax Collector shall be final unless appealed in writing to the Board of Supervisors within ten days of the decision.