

## Chapter 7 Tax Sales

### Frequently Asked Questions (FAQ)

#### What is the purpose of a Chapter 7 Tax Sale?

The purpose of Chapter 7 Tax Sales is to collect unpaid property taxes. Offering tax-defaulted property for sale achieves this by either collecting the unpaid taxes from the proceeds of the sale, or by motivating the assessee to redeem the property in order to avoid losing it. Chapter 7 Tax Sales encompass public auction (in person and internet) or sealed bid.

#### How does a tax collector obtain the authority to sell a property at a public auction or sealed bid sale?

Under California statute, the tax collector has the authority to sell tax-defaulted property that is subject to the power to sell (Rev. & Tax Code, [§3691](#)). Written approval from the Board of Supervisors (Rev. & Tax Code, [§3694](#)) is required to sell property via public auction (Rev. & Tax Code, [§3692](#)), or by sealed bid (Rev. & Tax Code, [§3692\(d\)](#)), to the highest bidder at the time and place fixed for sale (Rev. & Tax Code, [§3706](#)).

#### When does a property become subject to the power of sale?

Property that has been tax-defaulted for five years or more, or three years or more in the case of nonresidential commercial property, are subject to the power of sale. If no bids are received at a tax sale, an attempt must be made to sell the property at intervals of no more than six years, until it is sold (Rev. & Tax Code, [§3692\(a\)](#)). Three years or more after a property has been tax defaulted, a person or entity that has recorded a nuisance abatement can request the tax collector to offer that property at the next scheduled sale (Rev. & Tax Code [§3691](#)). The three year mark also applies to a public agency or nonprofit that wants to bring a residential property to auction that will serve the public benefit (Rev. & Tax Code, [§3692.4](#)).

#### Who is eligible to purchase property at a public auction?

Generally, anyone (age 18 and over) who registers and, if required by the tax collector, provides a deposit can place a bid on a property, with a few exceptions. A tax collector and their staff conducting the sale are prohibited in participating in the tax sale (Gov. Code, [§1090](#)). In addition, the current owner is not allowed to purchase their own property below minimum bid (Rev. & Tax Code, [§3698.5\(d\)](#)). The tax collector may prohibit a bidder from bidding at a sale for five years if the tax collector has voided a previous sale due to the bidder failing to consummate the purchase (Rev. & Tax Code, [§3456](#)).

#### Who maintains a list of the available properties for an upcoming tax sale?

Properties that are available at upcoming tax sales may be viewed on the tax collectors website, free of charge.

#### Are Chapter 7 Tax Sale public auctions held in-person?

Chapter 7 Tax Sales can be held in a public space (in-person) or virtually (internet auction) if the tax collector has decided to do so. The tax collector may make computer workstations available to the public. If workstations are provided, their location must be advertised in the notice of intended sale (Rev. & Tax Code, [§3704](#)).

### **What is a sealed bid?**

Tax-defaulted properties rendered unusable by their size, location, or other condition, may be offered under a sealed bid to owners of contiguous properties, or to holders of a predominant easement or right-of-way easement. After the tax collector notifies eligible bidders of a sealed bid, the bidders respond by mail with a bid price, the highest bidder purchases the property.

### **Who is eligible to participate in a sealed bid?**

Owners of contiguous properties or holders of a predominant easement or right-of-way easement are eligible. When a partial interest in oil, gas, or mineral rights is to be sold, only owners having an interest in those rights may bid. The successful bidder will be required, by the tax collector, to submit a request to the assessor to combine the unusable property with the bidder's own contiguous property as a condition of sale ([§3692\(c\)](#)).

### **If the highest bidder has failed to consummate the purchase, can the property be awarded to the second highest bidder?**

No, if the highest-bidder has failed to pay for the property, the sale is void. There are no provisions of law whereby the next highest bidder may be declared the purchaser.

### **Is the county responsible for the foreclosures and eviction processes?**

No, the county does not handle foreclosure or eviction processes.

### **Are mobile homes, equipment and other personal property located on the property part of the sale?**

No, personal property, such as mobile homes or equipment located on the property, are not a part of the sale. Unless the mobile home has a permanent foundation, you are bidding only on the land. Mobile homes are considered personal property unless they have a permanent foundation.

### **Do liens or encumbrances on a tax-defaulted property transfer to the new owner after purchase of the property at a tax sale?**

Pursuant to Revenue and Taxation Code section [3712](#), the deed conveys title to the purchaser free of all encumbrances of any kind existing before the sale, except:

- a) Any lien for installments of taxes and special assessments which installments will become payable upon the secured roll after the time of the sale.
- b) The lien for taxes or assessments or other rights of any taxing agency which does not consent to the sale under this chapter.
- c) Liens for special assessments levied upon the property conveyed which were, at the time of the sale under this chapter, not included in the amount necessary to redeem the tax-defaulted property, and, where a taxing agency which collects its own taxes has consented to the sale under this chapter, not included in the amount required to redeem from sale to the taxing agency.
- d) Easements constituting servitude upon or burdens to the property; water rights, the record title to which is held separately from the title to the property; and restrictions of record.
- e) Unaccepted, recorded, irrevocable offers of dedication of the property to the public or a public entity for a public purpose, and recorded options of any taxing agency to purchase the property or any interest therein for a public purpose.

- f) Unpaid assessments under the Improvement Bond Act of 1915 [Division 10 (commencing with Section 8500) of the Streets and Highways Code] which are not satisfied as a result of the sale proceeds being applied pursuant to Chapter 1.3 (commencing with Section 4671) of Part 8.
- g) Any federal Internal Revenue Service liens which, pursuant to provisions of federal law, are not discharged by the sale, even though the tax collector has provided proper notice to the Internal Revenue Service before that date.
- h) Unpaid special taxes under Mello-Roos Community Facilities Act of 1982 (Chapter 2.5, commencing with Section 53311, or Part 1 of Division 2 of Title 5 of the Government Code) that are not satisfied as a result of the sale proceeds being applied pursuant to Chapter 1.3 (commencing with Section 4671) of Part 8.

A title search initiated at the prospective purchaser's expense should reveal any liens or encumbrances on a property in the tax sale.

**When does the right to redeem a tax-defaulted property subject to the tax collector's power to sell cease?**

The right to pay the taxes in full and costs, to avoid the sale of the property, ceases at the close of business (5:00 p.m.) on the last business day prior to the commencement date of the tax sale.

**Are properties sold at auction on an "AS IS" basis?**

Yes. All properties are sold "AS IS". Prospective bidders are urged to thoroughly research each property on which they plan to bid. Counties make no guarantee, expressed or implied, relative to the title, location or condition of the properties for sale. In addition, the counties assume no responsibility, implied or otherwise, that properties sold at a tax sale are in compliance with zoning ordinances, mining and reclamation regulations or that they conform to building codes, permit requirements or any other government regulation.