

State of California

# County Tax Collectors' Reference Manual

Chapter 4000: Abstract of Secured Roll

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California State Controller's Office

# Chapter 4000 Abstract of Secured Roll

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## Introduction

The County Tax Collectors' Reference Manual, is produced by the State Controller's Office, Local Government Programs and Services Division, Property Tax Standards Unit. This manual is designed to provide comprehensive reference material to assist county tax collectors in performing their duties in compliance with statutory requirements and promote uniformity throughout the state.

All statutory references cited are from the Revenue and Taxation Code, unless otherwise noted. Citations and references in this manual are current as of its publication date however, care must be taken to ensure that none have been superseded by subsequent legislative action or court decisions.

The State Controller's Office forms referred to within this manual are samples that contain all of the required information pursuant to statute. The county tax collector's office may use the sample forms or they may create their own forms. Forms used should contain all information required by statute.

**NOTICE:** This publication is provided by the State Controller's Office, Property Tax Standards Unit, as a general resource for California's county tax collectors. This publication is written primarily for use by county tax collectors and does not constitute legal advice. This publication has been reviewed by The Committee on County Tax Collecting Procedures and members of the California Association of County Treasurers and Tax Collectors.

## 4000-4001 General Overview

### 4000. HISTORICAL BACKGROUND

The secured roll abstract system arose from the need to have a separate, easily updated record of delinquent taxes. Until 1949, the law required counties to keep lists of delinquent accounts called delinquent assessment rolls. Delinquent rolls for each year made redemption calculations cumbersome, and the permanently retained delinquent rolls required considerably more storage space than their summarized counterparts, delinquent list abstracts. By 1970 all counties used some form of abstract to consolidate records of delinquent accounts, and now, counties retain these records in a computer system and no longer print their abstracts on paper.

In 1955, statutes were enacted permitting destruction of inactive delinquent rolls more than 12 years old, if the county auditor first certifies the abstract list as correct and complete.

### 4001. DEFINITION

An abstract system consolidates, into a single record or file, pertinent information relating to all secured properties having delinquent assessments or taxes due. An abstract provides fiscal accountability and gives an official history and record of each delinquent parcel, and of the tax liens and tax collector's *Notice of Power to Sell* recorded against it. The abstract should be designed to track each individual parcel having delinquent taxes. The abstract may be kept by any "machine-prepared" method as defined by [§109.5](#)

## 4100-4106 Preparing the Abstract: General

### 4100. ASSISTANCE WITH REVISIONS

Any county offices with questions about the preparation of their abstract system should contact the State Controller's Office.

### 4101. PREPARATION OF ABSTRACT LIST

Each year, after delinquent taxes become tax defaulted ([§3436](#)), all of the unpaid items shown on the roll should be listed in the abstract list ([§4373](#)). A new abstract should be prepared for all properties that have become tax defaulted.

### 4102. CERTIFICATE OF AUDITOR

Upon completion of an abstract or updating of an existing list, the auditor must certify on the abstract list that it is true and correct ([§4374](#)).

**NOTE:** The format of an abstract must be approved by the State Controller ([§4372](#)).

#### **4103. DISPENSING WITH DELINQUENT ROLL**

To realize the full value of the abstract system, preparation of the delinquent roll should be eliminated. The abstract substitutes as the official record ([§2851](#)). The adoption of this alternative system requires a resolution of the board of supervisors under the conditions specified in [§2852](#).

#### **4104. ADOPTION AS OFFICIAL RECORD**

By resolution, the board of supervisors should approve and adopt the completed abstract list as the official record of the county's real property tax delinquencies. The resolution should provide for the cancellation of all other unpaid items appearing on the delinquent rolls that might have been overlooked when preparing the list. This act by the board of supervisors validates the abstract list as the sole complete record of unpaid real property taxes ([Attorney General Letter 3-19-46](#)).

#### **4105. INDEX**

The suggested method of indexing the abstract is compilation in ascending order by assessor's parcel number.

#### **4106. INTERNAL CONTROLS**

After taxes are declared to be in default and the data transferred to the abstract from the last equalized roll, the tax collector should reconcile their records with those of the auditor as to the amounts due for taxes, assessments, penalties, and costs. The auditor must then certify the correctness of the abstract list ([§4374](#)). The certified abstract then constitutes an accountable charge against the tax collector ([§4104.3](#), [§4108](#)).

Sub-controls, by tax rate area, school district, book or volume, or any other means, may be established for convenience or operating purposes.

## **4110-4112 Preparing the Abstract: Content**

#### **4110. REQUIREMENTS**

The abstract must contain all information relating to unpaid items as shown on the rolls from which it was prepared ([§4372](#)). This includes the data required by [Property Tax Rule 252 \(Title 18, California Code of Regulation\)](#).

**NOTE:** A guide must be provided to any abbreviations used on the abstract ([§156](#)).

A summary of the amounts required to redeem a parcel, including tax defaulted supplemental bills, is covered in manual sections [3200](#) and [5102](#). The abstract of delinquent secured taxes and certificate of redemption should be in a format similar to the example illustrated in State Controller's Office sample form, *Abstract of Delinquent Secured Taxes and Certificate of Redemption* ([SCO 4-01](#)).

The abstract sheet should clearly show:

- Each fiscal year of delinquent taxes;
- The amount of taxes that were defaulted (manual sections [5103](#) and [5104](#));

- The delinquent penalties (manual section [5110](#));
- The cost charges (manual section [5110](#));
- The redemption penalties (manual sections [5111](#) and [5112](#));
- The redemption fee (manual sections [5120](#) - [5124](#));
- Any installment plan of redemption information (manual section [5400](#) et seq.);
- The total amount required for redemption; and
- If the property has become subject to a recorded *Notice of Power to Sell*:
  - The recording information of the *Notice of Power to Sell*;
  - The recording fee for the Rescission of Notice of Power to Sell (manual section [5400](#) et seq.); and
  - The \$35 fee for obtaining names and addresses of parties of interest (manual section [5125](#)).

#### **4111. ADDITIONAL USE OF ABSTRACT**

The form may be designed in such a way that a copy may be used as a redemption certificate. Some counties find it desirable to provide space for recording, on either the face or the reverse side of the abstract sheet.

Information may be included relating to:

- Installment redemption transactions;
- Publication of the *Notice of Intent to Sell Tax Defaulted Property* and/or recorded *Notice of Power to Sell Tax Defaulted Property*;
- Registered notices;
- The date of attempted sale at auction or by sealed bid; and,
- Accounting transactions.

#### **4112. EXAMPLE FORM**

State Controller's Office sample form, *Abstract of Delinquent Secured Taxes and Certificate of Redemption* ([SCO 4-01](#)) is an example of an abstract with a redemption certificate as part of the form.

## **4120-4122 Preparing the Abstract: Periodic Accounting**

#### **4120. GENERAL APPLICATION**

The tax collector must account to the auditor, not less than once every 12 months and on dates approved by the auditor, for all collections during the preceding reporting period. On the same day, the tax collector must file a statement, under oath, with the auditor showing that all money collected has been paid as required by law ([§4108](#)). This accounting is separate from the "itemized account of transactions" described in the following section.

#### **4121. ITEMIZED ACCOUNTING**

The tax collector, not less than once every 12 months and on dates approved by the auditor, must file with the auditor, under oath, an itemized account, including amounts collected for each fund or district, of each month's transactions and receipts. This account must be filed within six months after the close of each month's business ([§4108](#)).

## **4122. REQUIRED AUDITS**

The records and accounts of redemptions must be audited at least once every three years ([§4108.5](#)).

## **4130-4132 Preparing the Abstract: Annual Posting**

### **4130. TAX DEFAULTED ITEMS**

Each year after the date of the declaration of default, the current year's delinquencies and tax defaulted supplemental assessments must be posted to the appropriate abstract ([§4373](#)). A new abstract should be prepared (manual section [4131](#)) for all properties that have become tax defaulted.

The abstract is a history of tax defaulted property. It is suggested that an entry be made for each year listed on an abstract, even if taxes are paid for a given year. This reduces the possibility of a delinquent tax being missed or a duplicate abstract being prepared.

### **4131. MULTIPLE ASSESSMENTS**

An abstract must be prepared for each parcel so that a proper filing sequence may be maintained. The abstract may be merely a cross-reference, or the tax may be segregated and a complete abstract record made, properly cross-referenced to other parcels in the same assessment.

### **4132. CERTIFICATION OF AUDITOR**

The auditor must certify the correctness of the new entries ([§4374](#)).

## **4200-4202 Recurring Transactions: Redemptions**

### **4200. REDEMPTION IN FULL**

If all property covered by an abstract sheet is redeemed, the redemption penalties for each year should be extended and the total redemption amount listed (manual section [5102](#)).

### **4201. PARTIAL REDEMPTION**

When a partial redemption is made, a new abstract should be prepared for each parcel or interest redeemed, with each cross-referenced to the original. Installment redemption payments are not considered partial redemptions ([§4216-§4226](#)).

The abstract pertaining to the portion being redeemed should be processed as a redemption in full. The abstract pertaining to the unredeemed property should be retained in the abstract. The original abstract is then transferred to the inactive file.

## **4202. INSTALLMENT PLAN**

Abstracts covering property placed under an installment redemption plan should be so noted on the face. The installment payment record should be kept in a supplemental file. See State Controller's Office sample form, *Installment Plan Payments for Use of Real Estate* ([SCO 5-03](#)).

The abstract should be kept in the active file until redemption is completed and then transferred to the inactive file.

## 4210-4211 Recurring Transactions: Cancellations

### **4210. COMPLETE CANCELLATION**

If all the delinquent taxes and assessments covered by an abstract are canceled by the board of supervisors, the date and reference number of the board order should be posted on the abstract. It is then transferred to the inactive file.

### **4211. PARTIAL CANCELLATION**

When a partial cancellation is ordered by the board of supervisors, a new abstract may be prepared for the portion remaining, cross-referenced to the original abstract and filed in the active file. The corrected original abstract should be posted with the date and reference number of the board order and transferred to the inactive file.

## 4220-4225 Recurring Transactions: Corrections

### **4220. GENERAL INFORMATION**

All corrections are made on the abstracts as though they are being made on the extended roll ([§4374](#)). If the correction is a substantial one, a new abstract should be prepared.

### **4221. CLERICAL ERRORS IN INITIAL PREPARATION**

When defects in description, form, or clerical error occur in the initial preparation of an abstract, or when subsequent delinquencies have been added to the abstract, they may be corrected at any time before the property has been sold at public auction, by sealed bid sale, or by agreement ([§4375](#), [§4834.5](#)).

### **4222. CLERICAL ERRORS IN SUBSEQUENT ENTRIES**

Clerical errors made in transferring information from the roll to an existing abstract list may be corrected on the abstract at any time before the county has disposed of the property ([§4834.5](#)).

## 4223. PAYMENT ON WRONG PROPERTY

### Redemption

A new abstract should be prepared for the property that was redeemed in error and immediately filed as an active abstract. The cancellation of payment should be noted on the original abstract and a reference noted that the payment has been transferred to a new abstract. The abstract should then be processed for the intended property as a redemption, cross-referencing it to the abstract containing the canceled payment (manual sections [4200](#) and [4201](#)).

### Installment Payment

The payment indicated on the installment payment record (manual section [4202](#)) pertaining to the unintended property should be canceled. If required, the reference to an installment plan shown on the face of the abstract pertaining to the unintended property should be lined through and noted on the face of the abstract for the intended property.

## 4224. PERSONAL PROPERTY

Personal property assessments constituting liens against real property and based on erroneous information supplied by the assessee may be corrected within the time allowed for assessing property that has escaped assessment, pursuant to [§532](#). Such change to be made within the abstract shall be certified to the auditor by the assessor ([§4831.5](#)). The correction is entered on the abstract sheet by the auditor ([§4834](#)).

If the information supplied by the assessee creates a decrease in the assessment, the consent of the board of supervisors is required ([§4835](#)).

## 4225. STATE-ASSESSED PROPERTY

Pursuant to [§868](#) the California Department of Tax and Fee Administration may correct errors on its roll any time within four years after the assessment was made or within the period for which a waiver was given ([§4876](#), [§4876.5](#)). Upon receipt of the Statement of Correction from the board of supervisors ([§4879](#)), the auditor enters the correction on the abstract and adjusts the control account if necessary ([§4880](#)).

**NOTE:** Real property assessed on the California Department of Tax and Fee Administration roll becomes tax defaulted and transferred to the abstract in the same manner as property on the local roll.

## 4230-4234 Recurring Transactions: Sale of Tax defaulted Property

### 4230. COMPLETE SALE

If all of the property covered by an abstract is sold at public auction or to a public agency, the appropriate information relating to the sale should be recorded and the abstract transferred to the inactive file.

#### **4231. SALE OF A PORTION OF A PROPERTY**

If only a portion of a property is sold, two new abstracts may be prepared. The original abstract and the abstract pertaining to the portion sold may be posted with the date of sale and the reference number, and transferred to the inactive file. The abstract pertaining to the remaining property may be cross-referenced to the original abstract and retained in the active file.

#### **4232. DEEDED PROPERTY SUBJECT TO RESALE**

If property is deeded to an agency and is subject to resale by the agency (manual section [8330 et seq.](#)), the agency receiving the deed should be noted accordingly on the abstract. Following resale by the agency, the abstract should be marked as resold by the agency and resold to the purchaser.

The county's records are not cleared until the property has been sold to a private purchaser. For proper control, either the abstract or a reference abstract in the active file should be retained until the property is sold by the agency.

#### **4233. ACQUISITION BY PUBLIC ENTITIES**

For properties acquired by a tax exempt agency (as defined in [§5081](#)) under eminent domain proceedings or by negotiated purchase, applicable taxes to the date of the change in ownership are to be transferred to the unsecured roll ([§5090](#)) and all taxes after the date of purchase canceled ([§5082](#)).

#### **4234. FORECLOSURE BY PUBLIC ENTITIES**

When a property is acquired by a tax exempt agency through foreclosure of its lien against real property, the taxes should not be transferred to the unsecured roll and the taxes on the abstract should not be canceled.

- If a taxing agency forecloses its lien for real property taxes, resulting in a tax deed being issued to the taxing agency, a parity of title is created with the county's tax lien that was created as a result of the tax default ([§3713](#)). The property is no longer taxable after the tax deed issues to the agency, but the county's lien for property taxes remains in effect against the property. Therefore, the abstract may not be removed.
- If a federal agency forecloses on tax liens and/or deeds of trust the property may or may not be taxable from the point of acquisition, but in all cases the abstract cannot be transferred to the unsecured roll as in a negotiated purchase. The tax liens and/or deeds of trusts that are being foreclosed upon are subordinate to the county's lien for real property taxes.
- In the case of a state, a county, a city or another agency foreclosing on judgment-type tax liens (certificate of lien, summary judgment, state tax lien, etc.) and/or a deed of trust, the property becomes tax exempt as of the date of acquisition, but the taxing agency remains subject to the county's lien for real property taxes.
- The abstract in this case would not be canceled or transferred to the unsecured roll, since the agency has acquired the property subject to the lien for real property taxes.

According to federal law ([Title 15, U.S. Code, Chapter 14a, §646](#), and [U.S Code §6323\(b\)](#)), liens held by the Small Business Administration (SBA) and the Internal Revenue Service (IRS) are subordinate to the county tax lien.

The priority of the county's tax lien, pursuant to [§2192.1](#), survives foreclosure by the SBA and the IRS and can be enforced against the property after it is acquired by the SBA or the IRS ([United States v. California-Plywood, 527 Fed. Rptr. 2d 687 \(1975\)](#); [Garcia v. County of Santa Clara, 1st Appellate District, Court of Appeal \(December 1978\)](#)).

## 4240 Recurring Transactions: Miscellaneous

### 4240. RETURNED CHECKS

If negotiable paper is returned unpaid by the bank on which it is drawn, the record of payment on the abstract must be canceled ([§2509](#), [§2510](#)). If the abstract has been transferred to the inactive file, it must be returned to the active file and the control accounts adjusted. Notice of cancellation should be sent as soon as possible to the person tendering the dishonored paper ([§2510](#)).

After the return to the depositing county officer of any unpaid negotiable paper, the tax collector may charge the person who attempted such payment a fee not to exceed the cost of making the required notifications to the person, processing the returned unpaid negotiable paper, and making the required cancellations on the tax roll. The fee amount shall be set by the board of supervisors and shall be subject to the fee review procedures required by [Government Code section 54986](#). The fee may be added to the tax bill and collected in the same manner as costs recovered under [§2621](#) ([§2509.1](#)).

## 4250-4254 Recurring Transactions: Controls

### 4250. INITIAL ENTRY

As indicated in manual section [4106](#), controls are established and an initial charge made when the abstract system is installed. The initial entry on the control sheet must be the date the auditor certifies the list, pursuant to [§4374](#). See manual section [4230](#) for information on recordation.

### 4251. SUBSEQUENT ENTRIES

Each transaction need not be entered into the control sheet but may be periodically summarized, with just the total entered. Such entries should include the period covered, the type of transaction, and the actual date entered.

### 4252. ANNUAL TAX DEFAULTING

Following the annual tax defaulting of properties, the control charges, consisting of delinquent taxes, special assessments, delinquent penalties, and costs, are increased accordingly.

### 4253. OTHER TRANSACTIONS

Redemptions, sales of tax defaulted property at public auction, by sealed bid, or by agreement, cancellations, and corrections, should also be reflected in the control and charge process.

### 4254. INSTALLMENT PAYMENTS

Money received from installment plan payments may be held in a separate fund until redemption is made and then credited against the charge, or the money may be credited and distributed as received ([§4656.6-§4656.7](#)). Money held in trust from defaulted installment plans must be distributed as regular taxes when the right of redemption terminates.

## 4260-4264 Recurring Transactions: Maintenance

### 4260. GENERAL INFORMATION

Once established in accordance with law, the abstract becomes the official permanent record of real property tax liens and constitutes prima facie evidence ([§4376](#)). All entries must be made therein that otherwise would have been made on the delinquent roll ([§4374](#)).

### 4261. TRANSFER FROM ACTIVE TO INACTIVE FILE

All entries on the abstract sheet should be entered promptly. As soon as an account becomes inactive, the abstract should be transferred to the inactive file, in accordance with normal filing procedures.

### 4262. CROSS-REFERENCE

Adequate cross-referencing is needed to maintain an abstract properly. Cross-reference sheets should be systematically pulled and transferred to the inactive file when no longer required in the active file. Alternatively, they may be destroyed if not needed in the inactive file. It is good practice to retain any inactive file until all statutes of limitation that may affect the tax liens have expired.

### 4263. PARCEL NUMBER OR TAX RATE AREA CHANGES

Arrangements should be made with the assessor and the auditor for systematic notification of changes in parcel numbers or tax rate areas. When tax rate areas or school districts are joined or divided or have their boundaries changed, make the corresponding changes on the index and the abstract (including cross-references) within the file, as required.

### 4264. DESTRUCTION OF ROLLS

Any delinquent tax roll more than two years old and any original secured roll on which it is based, containing the information set forth in the abstract, may be destroyed if:

- The abstract list has first been certified as correct and complete by the county auditor;
- The destruction of the roll is approved by the board of supervisors; and
- A certified, permanent record on a substitute medium has been prepared in accordance with [Government Code section 26205](#) and the substitute medium will be retained for at least 12 years from the date of creation of the original document. The substitute medium may also be destroyed following the expiration of the 12-year retention period ([§4377](#)).

Upon destruction, any delinquencies not appearing in the abstract are conclusively presumed redeemed. Cancel any tax default or *Notice of Power to Sell* resulting from such delinquencies unless there is, of record, a tax deed issued by the tax collector to a purchaser of the property at a sale by public auction, sealed bid, or agreement ([§4378](#)).

The delinquent tax abstract prepared in accordance with [§4373](#), or any photographic record of it, may be destroyed two years after the date the lien was removed. The liens are removed by cancellation, redemption, or at a sale by public auction, sealed bid, or agreement.

If the abstract is also used as the redemption certificate, it may be destroyed 12 years after its preparation, if a certified, permanent record on a substitute medium has been prepared in accordance with [Government Code section 26205](#).