

**SUBJECT: EXCESS PROCEEDS**

Updated 03/06/2023

**POLICY**

The following outlines the authority, purpose, and procedure for all excess proceeds and corresponding claims that result from tax sales held by/sanctioned by the Yuba County Treasurer and Tax Collector's Office.

**AUTHORITY**

Resolution 1980-189, approved by the Yuba County Board of Supervisors on August 5, 1980 pursuant to California Revenue and Taxation Code §4675.1, authorized the Yuba County Treasurer and Tax Collector's Office, in conjunction with Yuba County Counsel, to make determinations and distributions of tax sale excess proceeds in accordance with California Revenue and Taxation Code §4675.

**PURPOSE**

The purpose of this policy is to clearly define the process, requirements, and documentation for/with which claims for excess proceeds must be remitted.

**NOTIFICATION**

California Revenue and Taxation Code §4676 outlines when and how a county shall notify parties of interest (parties of interest are defined in California Revenue and Taxation Code §4675):

- a. When excess proceeds from the sale of tax-defaulted property exceed one hundred fifty dollars (\$150), the county shall provide notice of the right to claim the excess proceeds no later than ninety (90) days after the sale of the property.
- b. Notices will be mailed to the last known mailing address for all parties of interest. As required by law, the Yuba County Treasurer and Tax Collector's Office shall make a reasonable effort to obtain this information by utilizing a contracted third-party title search company, examining prior mailing address records on file with the County, and utilizing internet-based search engines.
- c. If the last known address cannot be obtained, the law requires that the County publish notice of the right to claim excess proceeds in a newspaper of general circulation in the county, unless the cost to publish is equal to or greater than the amount of excess proceeds.

**CLAIM REQUIREMENTS**

Each claimant must submit a completed claim form and supporting documentation, which provides information and proof of the claimant's right to all or a portion of excess proceeds.

## CLAIM FORM

1. In addition to the *Notice of Excess Proceeds*, the Yuba County Treasurer and Tax Collector's Office will mail a *Yuba County – Claim for Excess Proceeds* ("Claim Form").
2. Claimants must use the Claim Form developed by the Yuba County Treasurer and Tax Collector's Office; all other claim forms will be rejected.
3. If an interested party does not receive a Claim Form, one can be provided upon request. Delivery will be made available via standard USPS, email, or fax. Requests can be made by phone to (530) 749-7840 or by email to [yubatax@co.yuba.ca.us](mailto:yubatax@co.yuba.ca.us).
4. Failure to receive a Claim Form from the Yuba County Treasurer and Tax Collector's Office will not alleviate the claimant of the responsibility to submit a Claim Form and all necessary documentation by the deadline.

## INFORMATION ON FORM

1. The Claim Form must contain the following information:
  - a. Assessor's Parcel Number (this information is pre-filled on the *Yuba County – Claim for Excess Proceeds*)
  - b. Last Assessee / Owner of Record (this information is pre-filled on the *Yuba County – Claim for Excess Proceeds*)
  - c. Property Address (this information is pre-filled on the *Yuba County – Claim for Excess Proceeds*)
  - d. Date of Sale (this information is pre-filled on the *Yuba County – Claim for Excess Proceeds*)
  - e. Date the tax deed was recorded (this information is pre-filled on the *Yuba County – Claim for Excess Proceeds*)
  - f. Final date to submit a claim for excess proceeds (this information is pre-filled on the *Yuba County – Claim for Excess Proceeds*)
  - g. Amount or percentage of excess proceeds requested
  - h. Claimant's filing status (Lienholder of Record, Owner of Record, Qualified Heir of Owner of Record, Assignee of a Party of Interest)
  - i. Claimant's
    - i. Company name (if applicable)
    - ii. Name or authorized agent's name
    - iii. Mailing address
    - iv. Daytime phone number
    - v. Email address
    - vi. Signature
  - j. The claim form must be verified under penalty of perjury and properly notarized

## SUPPORTING DOCUMENTATION REQUIREMENTS

When gathering your supporting documentation, please be aware of the following:

1. More often than not, original documentation is required in order to satisfy the burden of proof necessary for a claim for excess proceeds. All original documents that are received by the Yuba County

Treasurer and Tax Collector's Office will be returned to the remitter of said documents once the claim has undergone its final review.

2. When original documentation is not available, the Yuba County Treasurer and Tax Collector's Office will accept certified copies.
3. The Yuba County Treasurer and Tax Collector's Office will not accept lost document affidavits in lieu of original/certified documents.

Regardless of the type of interest the claim is for, a copy of a current/valid state or government issued photo identification card must be provided for the individual signing the Claim Form.

California Revenue and Taxation Code §4675(d) provides that any claim for excess proceeds shall contain all the information and proof necessary to establish a claimant's right to all or any portion of the excess proceeds. Therefore, the Yuba County Tax Collector's Office has determined the following information and proof is required to be submitted with the Claim Form in order to make that determination.

**OWNER OF RECORD (INDIVIDUAL)** The person(s) who held record title to the tax-defaulted property must submit the following documents:

1. Original recorded document(s) (ie: deed, court order) to support claimant's rights to excess proceeds as the person(s) with title of record of the tax-defaulted property.
2. If the title to the property was in a recorded trust, the original trust document or Certification of Trust indicating that the claimant(s) is/are the trustee(s) or successor trustee(s) of the trust authorized to file a claim(s) on behalf of the trust.

**QUALIFIED HEIR OF OWNER OF RECORD (INDIVIDUAL)** Qualified heir(s) of a person who held record title to the tax-defaulted property or other interested party must submit the following documents:

1. Sufficient documentation proving that the claimant is a qualified heir to the person(s) with record title to the tax-defaulted property.
2. An affidavit or declaration under penalty of perjury pursuant to California Probate Code §13100-13116 **OR** the Last Will and Testament and any codicils thereto of a person(s) that held record title to the tax-defaulted property.

**OWNER OF RECORD (BUSINESS)** The entity who held record title to the tax-defaulted property must submit the following documents:

1. Original recorded document(s) (ie: deed, court order) to support claimant's rights to excess proceeds as the entity with title of record of the tax-defaulted property.
2. Any Claim Form filed on behalf of a business must be signed by an individual with corporate authority for the business, such as an officer, general partner, or sole proprietor.
3. Any Claim Form filed on behalf of a business must be accompanied by proof of the Federal Employer Identification Number (FEIN) assigned to the business. Suggested documents include:
  - a. "Letter of Confirmation" from the IRS showing assignment of the FEIN
  - b. Copy of received tax statement, such as:
    - i. IRS Form 1098 (Statement of Interest Paid)
    - ii. IRS Form 1099-INT or 1099-DIV (Statement of Interest or Dividends Earned)

iii. IRS assignment of FEIN internet confirmation page

*Tax returns, IRS Form SS-4, application, and/or W-9 will not be accepted to verify FEIN.*

4. In addition to the above-referenced requirements, claimants must also submit the following documentation, as applicable, based on business type:

- a. **CORPORATION** *(Please note that a parent corporation, regardless of the percentage of shares owned, is not an interested party of its subsidiary's recorded interest (whether it be a lien or a title of record) as the parent corporation is merely a shareholder of its subsidiary corporation; it does not own the corporate property of its subsidiary. Provide sufficient proof that the signer is an officer of the corporation with authority to submit a claim on behalf of the corporation. Documentation must also show the legal standing of the corporation. Acceptable documentation includes the following:*
  - i. Articles of Incorporation
  - ii. Corporate Resolution
  - iii. The most recent Statement of Information filed with the California Secretary of State (or equivalent from the state in which the business operates). If the business e-filed the Statement of Information, provide a copy of the Statement of Information and a copy of the payment receipt provided by the California Secretary of State
  - iv. Certificate of Dissolution
  - v. Other documents that prove the claimant/signer is a corporate officer who has authority to claim on behalf of the corporation
- b. **LIMITED LIABILITY COMPANY** Provide sufficient proof that the signer is a manager or officer of the Limited Liability Corporation with authority to submit a claim on behalf of the Limited Liability Corporation. Documentation must also show the legal standing of the Limited Liability Corporation. Acceptable documentation includes the following:
  - i. Company Resolution
  - ii. Operating Agreement
  - iii. Articles of Organization
  - iv. The most recent Statement of Information filed with the California Secretary of State (or equivalent from the state in which the Limited Liability Corporation operates). If the business e-filed the Statement of Information, provide a copy of the Statement of Information and a copy of the payment receipt provided by the California Secretary of State
  - v. Certificate of Dissolution
  - vi. Other documents that prove the claimant/signer is a manager or officer of the Limited Liability Corporation
- c. **LIMITED PARTNERSHIP** Provide sufficient proof that the signer is a general partner of the Limited Partnership with authority to submit a claim on behalf of the Limited Partnership. Documentation must also show the legal standing of the Limited Partnership. Acceptable documentation includes the following:
  - i. Certificate of Limited Partnership filed with the California Secretary of State (or equivalent from the state in which the Limited Partnership operates). If the business e-filed the Statement of Information, provide a copy of the Statement of Information and a copy of the payment receipt provided by the California Secretary of State

- ii. Partnership Agreement
  - iii. Certificate of Dissolution
  - iv. Other documents that prove that the claimant/signer is a general partner
- d. **GENERAL PARTNERSHIP** Provide sufficient proof that the signer is a general partner of the General Partnership with authority to submit a claim on behalf of the General Partnership. Documentation must also show the legal standing of the General Partnership. Acceptable documentation includes the following:
  - i. Statement of Partnership Authority
  - ii. Partnership Agreement
  - iii. Certificate of Dissolution
  - iv. Other documents that prove that the claimant/signer is a general partner
- e. **SOLE PROPRIETORSHIP** All of the following documentation is required:
  - i. Current or final federal tax return, including Schedule C
  - ii. Most current business license or facility permit
  - iii. Fictitious Business Name filing (filed with the County) (if applicable)
  - iv. Any other substantial/relevant documents that prove the claimant/signer is the sole proprietor
- f. **MERGER BUSINESS** If a claim is being made for a business that has merged with or sold to another business, a copy of the merger agreement or purchase agreement must accompany the aforementioned documentation outlined by business type.
- g. **SUSPENDED BUSINESS** If a claim is being made for a business that was previously suspended by either the California Secretary of State of the California Franchise Tax Board, proof that the business is no longer suspended must accompany the aforementioned documentation outlined by business type. Acceptable proof (documentation) may include:
  - i. Suspended by the California Secretary of State – a Certificate of Good Standing. This certificate can be obtained by contacting the California Secretary of State Information Services Office at (916) 657-5448 or by following the instructions on their website
  - ii. Suspended by the California Franchise Tax Board – a copy of an Entity Status Letter. This letter can be obtained by contacting the California Franchise Tax Board at PO Box 942857, Sacramento CA 94244-2250 or by visiting their website.

#### **LIENHOLDER OF RECORD**

1. The original promissory note and all modifications and/or amendments (if any) on the tax-defaulted property (the only alternative to the original (or certified copy) is a court order pursuant to California Civil Code §3415, which establishes the existence and terms of a lost note).
2. The original or certified copy of the Deed of Trust/Mortgage
3. The original or certified copy of any assignments
4. A statement outlining:
  - a. The original amount of the obligation
  - b. Any advances or modifications to the original obligation
  - c. The total amount of payment(s) received and date(s) received
  - d. The amount still due and payable as of the date of the sale of the tax-defaulted property

- e. If the note was in default according to its terms at the time of the tax sale (other than for defaulted taxes), you must also provide all documentation evidencing all collections efforts made by the claimant
- f. If the claimant under this section is a business, the claimant must also submit documentation as outlined above, based on the appropriate business type (outlined by business type in “OWNER OF RECORD (BUSINESS)” section).

**JUDGEMENT CREDITORS** *Judgement Creditors fall under “Lienholder of Record” on the claim form*

1. Proof that the judgement debtor is the person(s) who possessed record ownership of the tax-defaulted property at the time of the tax sale.
2. A certified copy of the judgement(s).
3. Statement or Orders setting forth any modification(s) to the judgement(s) (if any)
4. A statement outlining:
  - a. The original amount of the judgement
  - b. The total amount of payment(s) received and date(s) received
  - c. Amount still due and payable as of the date of the sale of the tax-defaulted property
5. If the judgement creditor is a business, the claimant must also submit documentation as outlined above, based on the appropriate business type (outlined by business type in “OWNER OF RECORD (BUSINESS)” section).

**ASSIGNEE OF PARTY OF INTEREST**

1. All proof required of any qualified claimant as outlined in the aforementioned sections under “CLAIM REQUIREMENTS”
2. A completed *Assignment of Right to Collect Excess Proceeds* form as found on our website (yuba.org > Departments > Treasurer-Tax Collector > Forms > Tax Sale.
3. The *Assignment of Right to Collect Excess Proceeds* must be:
  - a. Verified under penalty of perjury
  - b. Executed by all parties to the assignment
  - c. Notarized
  - d. Must contain ALL of the following information:
    - i. Proof that the amount and source of excess proceeds was disclosed to the party of interest
    - ii. That the party of interest was advised of his/her right to file a claim for excess proceeds on his/her own behalf directly with the Yuba County Treasurer and Tax Collector’s Office at no cost
    - iii. Contact information of the party of interest, including name, mailing address, phone number, and email (email optional).
4. If the assignee of a party of interest is a business, the must also submit documentation as outlined above, based on the appropriate business type (outlined by business type in “OWNER OF RECORD (BUSINESS)” section).

Any attempt of an assignment that does not fully comply with the above listed requirements shall have no effect and will be precluded from consideration when determining the rights/distribution of the available excess proceeds.

## **SUBMISSION OF CLAIM**

1. Pursuant to California Revenue and Taxation Code §4675(a), the deadline to file a completed claim for excess proceeds with the Yuba County Treasurer and Tax Collector's Office is one (1) year from the date that the deed was recorded to the purchaser of the tax-defaulted property. The claim shall be received or postmarked on or before the deadline in order to be considered timely.
2. Under no circumstances will a claimant be given additional time to file a valid *Yuba County – Claim for Excess Proceeds* form and/or supporting documentation. It is the sole responsibility of the claimant to submit a complete claim form along with the required supporting documentation on or before the deadline. As such, the Yuba County Treasurer and Tax Collector's Office is not responsible for informing any claimant of missing attachments or incomplete claims.
3. Each interested party must file their own claim form, unless:
  - a. The interested party has assigned his/her rights to another party, in which case the claim must include the information and documentation established in the "ASSIGNEE OF PARTY OF INTEREST" section above.
  - b. The claim is submitted on behalf of an interested party by an agent, an attorney in fact, or a person with valid powers of attorney, in which case sufficient evidence establishing the relationship would also need to be provided. Please note that should the Yuba County Treasurer and Tax Collector determine that the claim submitted in this fashion is valid and sufficient proceeds are available, the disbursement will be sent to the address of the attorney, agent, or attorney in fact, but shall be made payable to the interest party.
4. Generally, each claimant must submit their own claim and supporting documentation in a separate envelope. However, multiple claimants may submit their individual claims together in a single envelope if they are sharing supporting documentation.
5. Completed claims and all supporting documentation shall be mailed to:

Yuba County Treasurer & Tax Collector  
ATTN: Excess Proceeds Processing  
915 8<sup>th</sup> Street, Suite 103  
Marysville CA 95901

6. For each claim that is received or postmarked by the deadline, the Yuba County Treasurer and Tax Collector's Office will send the claimant a *Receipt of Claim for Excess Proceeds*.

## **PRELIMINARY CLAIM REVIEW**

1. The Yuba County Treasurer and Tax Collector's Office may conduct a preliminary review of claims filed during the eleven (11) months immediately following the recording of the deed to the purchaser for completeness. The preliminary review is intended as an opportunity for the Treasurer and Tax

Collector's Office to conduct an evaluation of the claim for the purposes of determining whether additional documentation is needed. Please note that the Yuba County Treasurer and Tax Collector does not guarantee that a preliminary review will be done – they are done as staffing levels and time permits and are purely an effort to better serve the public.

2. The Yuba County Treasurer and Tax Collector's Office may send one (1) written attempt to notify the claimant of the preliminary findings and whether additional information needs to be provided. Such letters will be mailed to the mailing address provided on the claim form. In the event that the Yuba County Treasurer and Tax Collector determines that additional documentation is needed, it would be requested at this time. The claimant would be required to submit any such additional documentation, with a copy of the Preliminary Claim Review letter, to the Yuba County Treasurer and Tax Collector's Office before the end of the deadline (one (1) year from the date that the deed was recorded to the purchaser of tax-defaulted property). Time extensions will NOT be permitted.
3. Claims received in the final thirty (30) days of the one (1) year filing period will not undergo a preliminary review.

## **FINAL CLAIM REVIEW**

1. After the deadline, the Yuba County Treasurer and Tax Collector's Office, in conjunction with Yuba County Counsel as deemed necessary, will perform a final review of all claims received.
2. The Yuba County Treasurer and Tax Collector and/or Yuba County Counsel will decide whether the claims and supporting documentation sufficiently evidence a claimant's right to excess proceeds.
3. The Yuba County Treasurer and Tax Collector and/or Yuba County Counsel will either approve or deny each claim, in whole or in part, and the Yuba County Treasurer and Tax Collector's Office will notify all claimants of the final decision in writing.
4. For each claim approved, the Yuba County Treasurer and Tax Collector and/or Yuba County Counsel will determine the order of the claimant's priority to the excess proceeds pursuant to California Revenue and Taxation Code §4675.
5. In certain instances, the Yuba County Treasurer and Tax Collector and Yuba County Counsel, may choose to file a legal action known as an "interpleader" to ask that the Yuba County Superior Court to decide who is entitled to and/or should receive the excess proceeds.

## **DISPUTE OF CLAIM / DISTRIBUTION OF EXCESS PROCEEDS**

1. Once a determination has been made and all claimants have been notified, any claimant wishing to dispute the award decision would have to do so in writing and it must be commenced within ninety (90) days of the decision (date on the award/denial letter).
2. In the event of a dispute, should the Yuba County Treasurer and Tax Collector and/or Yuba County Counsel be unable to resolve the dispute, the County will file legal action in the form of an interpleader with Yuba County Superior Court and allow the court to make the final determination.
3. At the close of the ninety (90) day window of the award decision and barring any dispute(s) received/pending, the Yuba County Treasurer and Tax Collector will distribute the funds as outlined in the award letters provided to claimants.

4. The Yuba County Treasurer and Tax Collector's Office will transfer any remaining excess proceeds that are not claimed by the deadline pursuant to California Revenue and Taxation Code §4674 to the Yuba County General Fund.

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Policy and procedure for **EXCESS PROCEEDS** approved by:

*Approved by Dan M. Mierzwa; signature on file in department*

*03/06/2023*

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Dan Mierzwa, Treasurer & Tax Collector

Date