



LOCAL RULES FOR
EXCESS PROCEEDS CLAIMS

POLICY STATEMENT

It is the policy of Inyo County to process all claims for excess proceeds resulting from the sale of tax-defaulted property so as to disburse timely and accurately any excess proceeds to claimants entitled thereto.

POLICY AMPLIFICATION

When secured property taxes are delinquent for five years, a county may, pursuant to Revenue & Taxation Code¹ § 3691, sell the property at a public auction known as a tax sale. The County first applies tax sale proceeds to payment of tax sale related costs and then to back taxes. If funds remain after the fees and taxes are paid, such funds are known as “excess proceeds”. Pursuant to R&T Code §4675, certain persons may file claims for the excess proceeds. In Inyo County, the Treasurer-Tax Collector has been vested with the authority to review all claims and, with review and recommendation by counsel, make the determination as to which claims should be paid and how much each claimant should receive.

The Treasurer-Tax Collector, pursuant to R&T Code §4675(d) and pursuant to Inyo County Resolution 99-12, has authority to require such information and proof as deemed necessary to establish claimants’ rights to excess proceeds. The Treasurer-Tax Collector therefore adopts the following rules and procedures for claims for excess proceeds:

1) PROMISSORY NOTES:

The existence and terms of a promissory note may only be established by submitting:

- a) An original or a copy of the promissory note signed by the person or entity charged with the debt;
- b) A written declaration from the obligor on the note stating that the payments were not made on the promissory note, or specifying the number of payments that were made or missed;
- c) Account records maintained in the ordinary course of business showing when payments were made or missed with entries at the time of the events recorded;
- d) Tax records showing the lack of payments and the years the payments were missed; or
- e) A court order that establishes the existence and terms of a lost note pursuant to Civil Code §3415.
- f) Under no circumstance will a claim for excess proceeds be granted if the time has run to commence an action to enforce the promissory note.

2) TRUSTS:

- a) Any claim based upon a trust will only be allowed if a copy of the trust, or a court order pursuant to Civil Code § 3415 is submitted along with any other instruments necessary to establish the right or authority of the claimant to act on behalf of the trust.
- b) In the event a trust has ceased to exist, claims based on ownership by the trust will be paid pursuant to a valid court order, or to the settler(s) of the trust upon sufficient proof of their identity.

3) PARTNERSHIP(S):

- a) Claims on behalf of a partnership or a limited partnership must contain a copy of the partnership agreement and any other documents necessary to establish the authority of a person who files a claim on behalf of the partnership. No claim will be paid on behalf of a partnership that can not prove that it has been in good standing or doing business prior to five years before the “date of sale” of the property for which the partnership claims excess proceeds, as defined in R&T Code § 3692.1(b).

4) **CORPORATION:**

- a) All claims on behalf of a Corporation or LLC that is in good standing with the State of California, or with the state it was incorporated or formed, must contain documentary evidence that the corporation, or LLC, is in good standing with the appropriate state, and that the claimant is duly authorized to file a claim on its behalf.
- b) Evidence required includes:
 - i) **Notarized claim form** must be signed by an authorized person on behalf of the corporation/LLC.
 - ii) A copy of the Corporate Bylaws or Articles of Incorporation is required.
 - iii) A resolution of the Board of Directors authorizing the claimant to act on behalf of the corporation/LLC with appropriate signatures and seal is required.
 - iv) If the corporation/LLC name has changed due to mergers, submit documentation which supports all name changes.
 - v) A copy of the Certificate of Status indicating the corporation/LLC is in good standing with its state of incorporation.
 - vi) Any foreign corporation/LLC must submit a Certificate of Registration from the California Secretary of State.
- c) All claims on behalf of a corporation, or LLC, that is not in good standing with the State of California or with its state of incorporation or formation, must contain a resolution by the corporation, or LLC, or a court order, that the person filing the claim is authorized to file the claim on behalf of the corporation, or LLC, or wind up the affairs of the corporation, or LLC, and must be submitted to the Treasurer-Tax Collector within five years of the date the corporation, or LLC, lost its good standing.
- d) No foreign corporation may file a claim unless and until it has obtained a certificate of qualification from the California Secretary of State as set forth in Corporations Code § 2105(a).

5) **POWER OF ATTORNEY:**

- a) Claims will be accepted from agents, attorneys in fact, and persons with valid powers of attorney. Disbursements will be sent to the address of the attorney, agent, or attorney in fact, but shall only be made payable to the principal.

6) **NOTARIZED STATEMENTS:**

- a) All claims must bear the seal of a notary, and include a copy of the notary's license or seal establishing the authority of the notary to notarize documents.

7) **EXTENSIONS:**

- a) The Treasurer-Tax Collector is authorized to extend the one year deadline for filing a claim for excess proceeds set forth in R&T Code § 4675 for two periods of thirty days each for good cause, or, in the discretion of the Treasurer-Tax Collector, for up to three years if the excess proceeds have not been disbursed and good cause for the delay is shown, such as fraud.

8) **APPEALS PROCESS:**

- a) Any challenge to the decision of the Treasurer-Tax Collector pursuant to R&T Code § 4675 shall be based only on the record in possession of the Treasurer-Tax Collector at the time the claim was presented for action, and shall include all claims not withdrawn. Any challenge shall be only by a petition for writ of mandate as set forth in Code of Civil Procedure § 1094.5.

9) **DOCUMENTS ESTABLISHING IDENTITY:**

- a) The claimant shall provide such documents as are necessary to establish the claimant's identity. The documents must be satisfactory to the Treasurer-Tax Collector and may include, but are not limited to:
 - i) Birth certificates,
 - ii) Death certificates,

- iii) Passports,
- iv) Immigration and Naturalization papers,
- v) Driver's licenses,
- vi) Marriage certificates,
- vii) Divorce decrees,
- viii) Utility bills, tax returns, trust, partnership agreements, or other documents that show a consistent use of a specific name used with a consistent spelling.

10) **PROBATE:**

- a) If a claim is filed based on a small estate affidavit pursuant to Probate Code § 13100, the claimant shall also submit the following information:
 - i) Names and birth dates of all persons having an interest in the estate of the same priority as the declarant's; and
 - ii) Names, birth dates and dates of death of all persons that would have had an interest in the estate of the same priority as the person on whom the declarant bases the declarant's claim.
 - iii) The Treasurer-Tax Collector may require such additional documentary proof as to the information submitted, as the Treasurer-Tax Collector may, in the Treasurer-Tax Collector's discretion, deem appropriate. If, upon receipt of a claim, additional information is needed, the Treasurer-Tax Collector will send an information request to the claimant. Claimant will have thirty (30) days to respond to any such request. Failure to respond to such a request will result in the claim being withdrawn from consideration.

11) **CLAIMANT CONTACT INFORMATION:**

- a) All claims shall include the current physical (e.g. street) address and telephone number of the claimant, and of all assignors of 100% assignments. Please include a mailing address if different from physical address. Addresses consisting solely of a post office box, or a postal drop, will be rejected. Claimants shall advise the Treasurer-Tax Collector of all changes of address and telephone number. If the Treasurer-Tax Collector is unable to contact a claimant for more than three months due to a failure by the claimant to advise the Treasurer-Tax Collector of a change of address or telephone number, the claim shall be considered withdrawn unless the Treasurer-Tax Collector, in the Treasurer-Tax Collector's sole discretion, shall determine otherwise.

12) A claim may only be based on an interest recorded prior to recordation of the tax deed except if the claim is based on a court judgment or order and:

- a) The judgment or order was entered into a case to which the county was a party;
- b) Rival claims were timely filed by parties obtaining a dissolution of marriage, and an order or judgment was entered within one year after issuance of the tax deed; or
- c) The claim is filed on behalf of an estate and testamentary letters were issued within one year after issuance of the tax deed.

¹ Unless otherwise noted, all statutory citations are to the Revenue and Taxation Code, which is abbreviated "R&T".