

Suzanne C. Bermudez
Treasurer-Tax Collector, County of Imperial
940 West Main Street, Ste 106
El Centro, CA 92243-2864

CLAIM FOR EXCESS PROCEEDS

I hereby certify that I am a party of interest in the following real property:

Assessment No.:

Last Assessee:

Property Address:

Date of Tax Sale:

Date Tax Deed Recorded:

I UNDERSTAND THAT THE FINAL DATE TO SUBMIT A CLAIM IS: _____ AND CLAIMS
NOT POSTMARKED ON OR BEFORE THAT DATE WILL NOT BE ACCEPTED.

I claim excess proceeds under Revenue and Taxation Code §4675 based upon my interest in the above described property as a:

Lienholder of Record

Owner of Record

Qualified Heir(s) of Owner of Record

Claimant Filing on Behalf of a Business

Assignee of a Party of Interest

Claimant's Mailing Address:

All necessary documentation proving my right to excess proceeds is enclosed. I affirm under penalty of perjury that the foregoing and all enclosures are true and correct to the best of my knowledge.

Social Security/Taxpayer Identification Number

Daytime Phone Number

Name of Claimant (typed or printed)

Signature of Claimant

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of _____

Subscribed and sworn to (or affirmed) before me on this _____ day of _____, 20____, by _____, proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

(Seal)

Signature _____

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INFORMATION AND INSTRUCTIONS FOR FILING CLAIM

The California Revenue and Taxation Code, Section 4675, states in part (paraphrased):

For the purposes of this article, parties of interest and their order of priority are:

- (a) First, lien holders of record prior to the recordation of the tax deed to the purchaser, in the order of their priority.
- (b) Then, any person with title of record to all or any portion of the property prior to the recordation of the tax deed to the purchaser. In the event that a person with title of record is deceased at the time the distribution of excess proceeds, the heirs may submit an affidavit pursuant to Chapter 3 (commencing with Section 13100) of Part 1 of Division 8 of the Probate Code to support their claim for excess proceeds.
- (c) A party of interest in the property at the time of the sale may assign his or her right to claim the excess proceeds only by a dated, written instrument that explicitly states that the right to claim the excess proceeds is being assigned, and only after each party to the proposed assignment has disclosed to each other party to the proposed assignment all facts of which he or she is aware relating to the value of the right that is being assigned.

If you believe you qualify as a party of interest in the sale of tax-defaulted property described on the enclosed claim hereof, please fill out the form stating how you have determined your status as a party of interest.

Pursuant to the authority delegated by the board of supervisors pursuant to California Revenue and Taxation Code section 4675.1, the ICTTC's Office has determined that the following information and proof is required to be submitted on the claim form and as supporting documentation in order to establish a claimant's rights to all or any portion of excess proceeds.

REQUIRED CLAIM FORM

When the ICTTC's Office elects to provide claimants with a prescribed form for submission of an excess proceeds claim, use of the prescribed form shall be mandatory unless the ICTTC's Office in its discretion excuses the use of the form in a particular case upon a showing of good cause. A copy of any such prescribed form (1) shall be mailed to parties of interest, along with notice and instructions, (2) shall also be provided upon request submitted by mail, email, or fax, and (3) may at the discretion of the ICTTC's Office also be made available for download on the Imperial County website.

Failure to provide any information requested on the ICTTC Excess Proceeds Claim Form may, in the reasonable discretion of the ICTTC's Office, result in denial of the claim. The required form is attached to these instructions for your convenience.

SUPPORTING DOCUMENTATION

All documentation must be submitted along with a valid claim form, verified under penalty of perjury, and notarized. Affirmation must be in accordance with California Government Code section 8202.

Except upon a showing of good cause, the ICTTC's Office requires that original documents be submitted. Original documents will be returned to the claimant upon request. If a claimant is unwilling to part with custody of an original document, the claimant may schedule an appointment for an in-person inspection of such original document by the ICTTC staff. ***Each claim must include a copy of a valid photo identification card.***

When an original document, such as a promissory note, has been lost or is otherwise unavailable, alternative evidence establishing the existence and terms of the document to the reasonable satisfaction of the ICTTC's Office must be submitted. The ICTTC's Office does not accept lost document affidavits in lieu of original documents without corroborating evidence establishing all aspects of the claim. Submission of a copy of a promissory note and/or any modification of a promissory note will generally be rejected as such instruments are negotiable certificates that may be sold, assigned, transferred or pledged by endorsement to the original instrument. When a claimant is unable to produce an original promissory note or other substantiating documentation establishing the validity, amount, and priority of a claim to the reasonable satisfaction of the ICTTC's Office, the claimant may be required to obtain a court order pursuant to California Civil Code section 3415 which establishes the existence and terms of the lost note or other document.

The documentation listed below is required to prove the most commonly presented types of claims for excess proceeds:

MORTGAGE LENDERS AND DEED OF TRUST BENEFICIARIES

1. The original promissory note and all modifications (if any);
2. The original or recorded copy of the Deed of Trust/Mortgage;
3. The original or recorded copy of assignments (if any);
4. Statement signed under penalty of perjury setting forth the original amount of the obligation and any advances or modifications;
5. Statement signed under penalty of perjury setting forth dates and amounts of all payments received;
6. Statement signed under penalty of perjury setting forth the amount due and payable as of the date of the sale of the tax defaulted property;
7. If the note was in default at the time of sale (other than for defaulted taxes), documentation evidencing collection efforts, if any.

JUDGMENT CREDITORS

1. Proof that the judgment debtor is the person(s) who possessed record ownership of the property sold at the tax sale, or proof that the person who held record title at the time of the tax sale took title subject to the judgment lien;
2. A recorded copy of the judgment or abstract of judgment;
3. Verified statement or court order setting forth any modification(s) to the judgment;
4. Verified statement of the dates and amounts of all payments received; and
5. Verified statement of the amount still due and payable as of the date of the sale of the tax defaulted property.

PERSON(S) WITH TITLE OF RECORD

1. Original recorded documents showing holder of record title (e.g., deed, death certificate, court order). Copies of these documents may be accepted if accompanied by additional documentation supporting the claim (e.g., utility bills for the property in the claimant(s)'s name such as power, television, internet subscriptions, and original tax bills). Supporting documentation must prove that the claimant was the person with title of record at the time of sale.

2. If title to the property was in a recorded trust, the original trust document indicating that the claimant(s) is/are the trustee(s) or successor trustee(s) of the trust authorized to file claims on behalf of the trust.

QUALIFIED HEIRS OF PERSON(S) WITH TITLE OF RECORD

1. Documentation to prove the claimant's legal standing as an heir to the Person(s) with Title of Record.
2. A notarized probate affidavit, verified under penalty of perjury and executed by all claimants, pursuant to California Probate Code sections 13100-13116. A form is available for download on the Imperial County Treasurer-Tax Collector's website.
3. Last Will and Testament(s), if applicable.

CLAIMS FILED ON BEHALF OF ANY BUSINESS

- A. All claim forms must be signed by an individual authorized to sign on behalf of the business, such as a corporate officer, a general partner, or the individual who owns a sole proprietorship. Proof of authority must be provided as specified in Section 3.2.E.3, below.
- B. All business entities must provide proof of the entity's Federal Employer Identification Number (FEIN); such proof may be in the form of:
 1. IRS "Letter of Confirmation" from showing assignment of FEIN; or
 2. Copy of IRS assignment of FEIN internet confirmation page; or
 3. Copy of tax statement issued by the IRS showing FEIN, such as:
 - a. IRS Form 1098, statement of interest paid; or
 - b. IRS Form 1099-INT, statement of interest earned; or
 - c. IRS Form 1099-DIV, statement of dividends earned.

Documents produced by the business such as tax returns, IRS Form SS-4 application, or W-9 will not be accepted to verify FEIN.

- C. The following documentation is also required, as applicable:

1. CORPORATION

Documentation showing that the individual signing the claim form is an officer, or is otherwise authorized to submit the claim on behalf of the corporation. Such documents may include:

- a. Articles of Incorporation;
- b. Corporate Resolution granting the specified authority;
- c. The most recent Statement of Information (or equivalent from state in which corporation was formed) showing confirmation of filing with the Secretary of State (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 Secretary of State);
- d. Certificate of Dissolution; or
- e. Other documents demonstrating that the individual is a corporate officer, or is otherwise authorized to submit the claim on behalf of the corporation.

2. LIMITED LIABILITY COMPANY

Documentation showing that the individual signing the claim form is a manager or officer, or is otherwise authorized to submit the claim on behalf of the limited liability company. Such documents may include:

- a. Articles of Organization;
- b. Company Resolution;
- c. Operating Agreement;
- d. The most recent Statement of Information (or equivalent from state in which limited liability company was formed) showing confirmation of filing with the Secretary of State (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 Secretary of State);
- e. Certificate of Dissolution; or
- f. Other documents demonstrating that the individual is a manager or officer, or is otherwise authorized to submit the claim on behalf of the limited liability company.

3. LIMITED PARTNERSHIP

Documentation showing that the individual signing the claim form is a general partner, or is otherwise authorized to submit the claim on behalf of the limited partnership. Such documents may include:

- a. Certificate of Limited Partnership (or equivalent from state in which the limited partnership was formed) showing confirmation of filing with the Secretary of State (if the business e-filed, provide a copy of the document and a copy of the payment receipt provided by the Secretary of State);
- b. Partnership Agreement;
- c. Certificate of Dissolution; or
- d. Other documents demonstrating that the individual is a general partner, or is otherwise authorized to submit the claim on behalf of the limited partnership.

4. GENERAL PARTNERSHIP

Documentation showing that the individual signing the claim form is a general partner, or is otherwise authorized to submit the claim on behalf of the general partnership. Such documents may include:

- a. Statement of Partnership Authority;
- b. Partnership Agreement;
- c. Certificate of Dissolution; or
- d. Other documents demonstrating that the individual is a general partner, or is otherwise authorized to submit the claim on behalf of the partnership.

5. SOLE PROPRIETORSHIP

Documentation showing that the individual signing the claim form is the owner of the sole proprietorship, or is otherwise authorized to submit the claim on behalf of the sole proprietorship. Such documents should include:

- a. Most recently filed or final federal tax return, including Schedule C;
- b. Most current business license or facility permit; and
- c. Fictitious Business Name Statement showing confirmation of filing with

the County, if applicable.

6. **MERGED BUSINESSES**

If the business entity that was originally the party of interest has merged with or been sold to another business, provide a copy of the merger or purchase agreement.

7. **SUSPENDED BUSINESS**

If the business entity that is the party of interest was previously suspended by either the Secretary of State or the Franchise Tax Board (FTB), proof must be provided that the business is no longer suspended; such proof may include:

- a. If the business was suspended by the Secretary of State, a Certificate of Good Standing, which can be obtained by contacting the Secretary of State Information Services Office at (916) 657-5448, or by following the instructions located on the Secretary of State's website that links to their "Information Requests" page.
- b. If the business was suspended by the FTB, an Entity Status Letter, which can be obtained by contacting the FTB at: Franchise Tax Board, P.O. Box 942857, Sacramento, CA 94244-2250, or by visiting the Franchise Tax Board's website.

ADDITIONAL REQUIREMENTS FOR ASSIGNEES OF A PARTY OF INTEREST

Any person submitting a claim based upon an assignment from a person or entity who was the original party in interest must submit:

- A. All proof required of a claimant as set forth in Sections 3.2. and 3.3 above, as it would apply to the assigning party.
- B. A notarized affidavit, in the form set forth in the ICTTC Excess Proceeds Claim Form, verified under penalty of perjury and executed by all parties to the assignment, containing the following information:
 1. A statement that the amount and source of excess proceeds was disclosed to the party of interest;
 2. A statement that the party of interest was advised of his/her/its right to file a claim for excess proceeds on his/her/its own behalf directly with the County at no cost; and
 3. The name, address, and phone number for the party of interest (this must be direct contact information and not c/o the party to whom the claim has been assigned).

SUBMISSION OF CLAIM

- A. Each claimant must file his/her/its own claim, unless the claimant has chosen to assign his/her/its rights to another party.
- B. Two or more claimants may submit their claims together in one envelope if they are sharing back-up materials.
- C. Two or more claimants (e.g. siblings, heirs, husband and wife) may file one joint claim with shared back-up materials only if the supporting documents demonstrate that they have equal ownership rights (e.g. 50% each, 25% each, husband and wife as joint tenants, etc.); an additional \$35 will be charged for each additional disbursement warrant, when more than one warrant is required.

D. Completed claim forms and supporting documentation are to be mailed to:

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E. Claims will be accepted from agents, attorneys in fact, and persons with valid powers of attorney, provided that evidence of the agency is provided. Disbursements will be sent to the address of the attorney, agent, or attorney in fact, but shall only be made payable to the principal.

F. A letter acknowledging receipt of the claim will be sent to each claimant who correctly filed a claim on the required ICTTC Excess Proceeds Claim Form, within the specified deadline to file said claims.

G. The ICTTC has no obligation to give any claimant additional time, beyond the one year filing deadline, to submit a complete claim, together with all necessary supporting documentation.

CLAIM REVIEW AND DISPOSITION

A. Pursuant to California Revenue and Taxation Code section 4675, claims will be processed after one (1) year has passed from the date of the recording of the deed to the purchaser. In order to receive consideration, completed claims must be postmarked before the expiration of one (1) year following the date of the recording of the deed to the purchaser.

B. The ICTTC's Office may, in its discretion, perform a preliminary review of claims received during the one (1) year period.

C. If, upon review and prioritization of all claims submitted in accordance with the Revenue and Taxation Code, it appears that a claimant would or might be entitled to receive some or all of the excess proceeds, but the claimant has failed to submit adequate documentation supporting the claim, the ICTTC will send the claimant a Request for Additional Documentation letter identifying the deficiencies in the claim and affording the claimant a reasonable opportunity to provide additional documentation in support of the claim. The time allowed for submission of additional documentation shall be no less than 30 days, and in no event shall the deadline for the submission of the additional documentation be earlier than the initial one year deadline for the submission of claims.

D. The ICTTC will not accept unsolicited supporting documentation after the one-year deadline for the submission of claims. The only supporting documentation that will be accepted after the one-year deadline in addition to the original claim packet will be solicited documentation that has been specifically requested by ICTTC staff. That specific documentation must be accompanied by a copy of the Request for Additional Documentation letter and must be received by the ICTTC's office, postmarked on or before the deadline specified.

E. In the event of competing claims that the ICTTC does not believe can be resolved with the requisite certainty on the basis of the documentation submitted, the ICTTC may elect to interplead the excess proceeds in controversy for a judicial determination.

F. Once the ICTTC makes a final decision as to a claim, a letter of final determination will be sent to the claimant. Pursuant to California Revenue and Taxation Code section 4675(g), the deadline for any action or proceeding to be commenced to review the decision of the ICTTC shall be 90 days after the date notice of the ICTTC's final decision is mailed to the claimant.