

State of California

Unsecured Property Tax Collection Manual

Volume III: Seizure and Sale



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Introduction

The *Unsecured Property Tax Collection Manual* is a multi-volume manual produced by the State Controller's Office, Division of Accounting and Reporting, Property Tax Standards Unit. This manual provides comprehensive instructions and recommendations on the collection techniques available to county tax collectors.

Volume III: Seizure and Sale provides a general overview of the process of collecting delinquent unsecured property taxes and outlines several preliminary collection procedures and techniques to avoid more complex secondary collection efforts. Unless otherwise indicated, all statutory references cited are from the California Revenue and Taxation Code.

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 offices may use the sample forms or may create their own forms. Forms should contain all information required by statute.

NOTICE: This publication is provided by the State Controller's Office, Division of Accounting and Reporting, Property Tax Standards Unit, as a general resource for California's county tax collectors. Use of processes and forms in this publication is recommended to assist the counties in performing their duties under the law. 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 (CACTTC).

Section 1: Collection Action – Prior to Tax Delinquency (January 1 – August 31)

Background

While nearly all types of unsecured property may be seized and sold as a means to collect delinquent taxes, physically seizing property effectively removes control of assets from the delinquent assessee, making this method of collection enforcement the strongest payment motivation. The county tax collector can collect taxes due on unsecured property by seizing and selling the property at a public auction ([§2951](#)).

Key Considerations

As soon as possible after the taxes on unsecured property become delinquent, it is recommended that a *Certificate of Tax Lien for Unsecured Property Taxes (Certificate of Lien)* be filed with the county recorder. The filing of a *Certificate of Lien* for delinquent taxes constitutes a lien on all personal and real property belonging to the assessee at the time of seizure and any property acquired thereafter.

Note: The *Certificate of Lien* is not valid for personal property against a bona fide purchaser without the purchaser’s specific knowledge of the lien. A “bona fide purchaser” refers to an innocent party who purchases property in good faith, without notice of any adverse claim, defect in title, or right of third parties.

Assessee’s are entitled to an administrative hearing prior to the sale of their seized property. The format of an administrative hearing can be relatively informal ([T.M. Cobb Co. v. County of Los Angeles, 128 Cal. Rptr. 655; 16 Cal. 3d 606](#)). See [Section 5: Sale of Seized Property](#).

The seizure and sale process:

- Has a 3 year statute of limitations ([§2963](#));
- Is significantly faster than enforcement through a writ of execution;
- Avoids the necessity of posting costs with the sheriff or marshal where such posting is required;
- Avoids judicial deductions and litigation over possible defenses that would otherwise be permitted by executions of judgments; and,
- Requires no prior judgment or lien.

Jeopardy Seizure

The tax collector may initiate seizure actions before taxes become delinquent based on the assessee's tax payment history, business type, or other conditions. Seizure of property prior to delinquency is known as a "jeopardy seizure." Jeopardy seizure is the seizing of property prior to taxes becoming delinquent (on unsecured property) when the tax collector believes that there is "a great probability that the taxes will not be collectible or paid after the delinquency date" ([§2953](#)).

At any time prior to the August 31 delinquency deadline, and under specific conditions, the tax collector may determine that the assessee may not pay taxes or that the taxes will not be easily collectible later in the process.

Once the tax collector has evidence of conditions that early collection action is necessary, he or she may initiate the seizure and sale process at any time. The tax collector must also file a written declaration regarding the seizure and sale with the clerk of the board of supervisors and provide a copy of that declaration to the assessee.

Pursuant to California Revenue and Taxation code section [2953](#) conditions for jeopardy seizure may include:

- Unstable or tenuous financial condition;
- Property can be easily moved or hidden;
- Previous delinquent unsecured taxes and/or,
- Other suitable reasons.

Determining Jeopardy Seizure Eligibility

Step 1: Pursuant to California Revenue and Taxation Code section [2953.1](#), determine whether the property is:

- Currently offered for sale under the provisions of the Commercial Code [§6101 – 6111](#);
- Scheduled for a public auction; and/or,
- Seized for a prior year's delinquent taxes.

Step 2: If the property does not meet any of the conditions in Step 1, proceed to [Preparing a Declaration of Intent to Seize Property](#). If the property meets any of the conditions in Step 1, the tax collector need not file a declaration pursuant to [§2953](#) and can proceed to [Section 3: Preparing for Seizure of Property](#).

Preparing a Declaration of Intent to Seize Property

Step 1: Prepare a written declaration enumerating the conditions and rationale necessitating a pre-tax delinquency seizure. Ensure that the declaration includes a "with penalty of perjury" statement. See the State Controller's Office sample form, *Declaration of Intent to Seize Property* ([SCO 2-05](#)).

Step 2: The tax collector or designated deputy signs the declaration.

Step 3: Make a copy of the declaration for the tax collector's records.

Note: If a jeopardy seizure is executed, a copy of the declaration must be provided to the assessee at the time of seizure ([§2953](#)).

Step 4: File the original declaration with the clerk of the board of supervisors.

Step 5: Initiate seizure of property. Proceed to [Seizing the Bank Account](#).

Note: An administrative hearing may be required when seizing property. Proceed to [Preliminary Actions – Scheduling and Noticing](#) for more information.

Jeopardy Seizure Protest

After executing a jeopardy seizure of unsecured property pursuant to [§2953](#), the assessee may file a protest against the seizure, and request a hearing to dispute the merits of the action ([§2954](#)).

Step 1: Determine whether the assessee has filed a protest. Either of the following documents provided by the assessee would suffice for protest pursuant to [§2954\(a\)](#):

- A petition for a writ of prohibition; or,
- A petition for writ of mandate.

Note: Either petition must be filed in superior court and allege the following pursuant to [§2954\(a\)\(1-3\)](#):

- No grounds exist for the seizure;
- The tax collector's declaration is untrue or inaccurate; and,
- Sufficient funds will be present to pay taxes prior to the regular delinquency deadline.

Step 2: If the assessee has filed a protest that meets the criteria in Step 1, proceed to [Obtaining a Bond from the Assessee](#). If the assessee has not filed a protest or the protest provided does not meet the criteria in Step 1, proceed to [Section 5: Sale of Seized Property](#).

Obtaining a Bond from the Assessee

After determining that the assessee has filed a protest:

Step 1: Respond to the assessee's protest by mailing a request that the assessee file a bond with the tax collector's office, in person, as well as provide proof of such filing to the court. The bond amount must be sufficient to pay the taxes and all fees and charges covering the seizure action ([§2954 \(b\)](#)).

Step 2: Upon receipt of the bond, release all seized property to the assessee ([§2954 \(b\)](#)).

Results of Seizure Protest Hearing

If the assessee prevails:

- The county must pay all costs, including attorney's fees ([§2955](#)).
- The tax collector must bear the costs of the seizure and any other related costs ([§2955](#)).

If the assessee does not prevail:

- The assessee is liable for all the taxes, penalties, and interest ([§2955](#)).
- The assessee is responsible for any other costs incurred by the county as a result of the protest ([§2955](#)).

Regardless of the outcome, the tax collection issue is settled. No further action is necessary.

If, however, subsequent to the date the taxes in question become delinquent, the taxes are not paid in full and it becomes necessary for the tax collector to seize property of the assessee in payment of the taxes or to commence an action against the assessee for recovery of the taxes, in addition to all taxes and delinquent penalties, the assessee shall reimburse the county for all costs incurred at the time of the original seizure and all other costs charged to the tax collector or the county as a result of the original seizure and any subsequent actions ([§2955](#)).

Section 2: Preliminary Actions After Taxes Become Delinquent (September 1 – October 31)

Background

Informing the assessee is a mandatory step in every collection action, including seizure and sale. The notification process is designed to satisfy the due process elements pre-empting the government seizure of property. Providing notices also reinforces the impending seizure and can motivate the assessee to pay.

Note: Any unsecured tax bill mailed after July 31 becomes delinquent and subject to penalty on the last day of the month following the month the bill was mailed.

Tax Delinquency Review

Step 1: On September 1, review the tax payment status for all unsecured property.

Step 2: Identify properties that are delinquent. Any property that has unpaid property taxes due for a given year is delinquent as of August 31 of that given year.

Step 3: If the tax collector plans to provide delinquency notices, which may or may not include the filing of a *Certificate of Lien for Unsecured Property Taxes (Certificate of Lien)*, prior to any seizure action, then proceed to [Volume I: Unsecured Tax Collection Overview, Section 4, Notice of Delinquent Taxes](#).

For any other course of action, proceed to [Section 3: Preparing for Seizure of Property](#).

Section 3: Preparing for Seizure of Property

Pre-seizure Review

Anything that is not real property may be seized.

Real property that may not be seized ([§104](#)):

- Land, including timber and minerals;
- Anything permanently affixed to the land (improvements), such as;
 - Planted trees and vines;
 - Buildings;
 - Fences, and;
- anything things permanently attached to buildings, such as;
 - Light fixtures;
 - Plumbing;
 - Heating fixtures;
 - Any other such items that would be personal property if not attached;
- Rights to any of the above.

Common property types that may be seized include, but are not limited to:

- Airplanes;
- Bank accounts;
- Boats/vessels;
- Farm equipment;
- Fixtures;
- Leased equipment;
- Machinery;
- Manufactured/mobile homes;
- Office furniture;
- Oil/gas leasehold estates;
- Third party payments; and
- Certain possessory interests;
 - Vending machines within buildings;
 - Concessions within fairgrounds.

Pre-seizure Considerations

Confirm that the property scheduled for seizure is being seized to collect delinquent taxes that are outstanding for three years or less. Property cannot be seized and sold for the collection of any taxes that are delinquent for more than three years ([§2963](#)).

If the seizure of property is being reinforced by the filing of a *Certificate of Lien*, confirm that the certificate has been recorded against the assessee of the tax delinquent property.

Filing a *Certificate of Lien* is not required, but is recommended. If the tax collector elects to file a *Certificate of Lien* and cannot confirm that one has already been recorded, then proceed to [Unsecured Tax Collection Overview, Volume 1, Section 5, Preparing the Certificate of Lien](#).

If a *Certificate of Lien* has been recorded or the tax collector has chosen not to file one, proceed to [Section 4: Seizure of Property](#).

Section 4: Seizure of Property

Prior to Seizure

Before initiating the process of physically seizing a business or tangible property item, it may be prudent—in terms of staff time, resources, and potential public altercations—to consider seizing bank accounts prior to seizing other tangible personal property.

- If the tax collector chooses to attempt seizure of bank account(s), proceed to [Seizing the Bank Account](#).
- If not, proceed to [Preparing to Seize Tangible Personal Property](#).

Determine whether full payment on the property has been received by the tax collector’s office.

- If payment was received, cease any further collection action.
- If payment was not received, determine whether the assessee has initiated any bankruptcy action.

Bankruptcy filing status can be determined via the following:

- Public Access to Court Electronic Records (PACER): <https://www.pacer.gov>
- Voice Case Information System (VCIS): (866) 222-8029
- Most bankruptcy records can be viewed at no charge using the public access terminals in each [Bankruptcy Court divisional office](#).

If the assessee is in bankruptcy, cease all collection activity, follow the tax collector’s office procedures pertaining to bankruptcies, and consult with county counsel.

If the assessee is not in bankruptcy, proceed to [Seizing the Bank Account](#).

Seizing the Bank Account

Step 1: Determine the location/address of the assessee’s unsecured property and his or her residential address.

Note: Researching the tax collector’s database to locate an assessee’s prior payment of taxes using a bank account number may be helpful in obtaining current bank account numbers.

Step 2: Consider using locator options to find the addresses.

Statewide property ownership locator resources:

- DataQuick;
- Parcel Quest; and,
- Real Quest.

Individual assessee locator resources:

- InfoQuest;
- Accurint;
- Experian;
- Court records; and,
- DMV records (best for ownership records and lienholder information of vessels and boats).

Step 3: Research all banks and credit unions within the vicinity of the assessee addresses determined in Step 2.

Step 4: Complete a seizure notice for each bank or credit union where you've determined the assessee may have an account. See the State Controller's Office sample form, *Seizure Notice for Taxes* ([SC 2-27](#)).

Note: Confirm with the banks and credit unions that the named assessee or the business name is a signatory on the account and confirm any bank fees for processing the seizure.

Step 5: Deliver by hand or send out by certified mail ([§36](#)) the seizure notices to the bank and credit unions identified.

Step 6: The banks and credit unions will respond indicating either:

- No account(s) exist;
- The account has been inactivated;
- There are no funds to seize; or,
- Active and funded accounts exist, and they will be frozen.

Step 7: Confirm that the amount of funds in the bank account(s) cover the taxes due. If the funds do not cover the taxes due, continue to Step 8 and complete the bank account seizure, and also consider seizing tangible personal property owned by the assessee sufficient to cover the remaining taxes due. Proceed to [Preparing to Seize Tangible Personal Property](#) after completing the procedures in this section for additional seizure options.

Note: The bank is required to complete the notification requirements in ten (10) business days or less. In the notification process, the bank sends a notice to inform the assessee that his or her assets have been frozen. Once the ten (10) business days have passed, the bank will release funds to the tax collector. The bank may charge fees for any internal seizure processing.

Step 8: Confirm receipt of funds from the bank.

- If the funds have been seized pursuant to [§2953](#) (jeopardy seizure), proceed to [Jeopardy Seizure Protest](#).
- If the funds seized were for taxes already delinquent, proceed to Step 10 of this section.

Note: Retain the mailing receipt notices from the bank and assessee in the seizure file folder.

Step 9: Apply the funds toward the taxes due, or record and hold the funds and offer the assessee an administrative hearing.

If the funds are applied toward the taxes due, the procedure is ended. If the assessee is offered an administrative hearing, proceed to [Preliminary Actions - Scheduling and Noticing](#).

Note: An administrative hearing for seizure/levy against bank accounts or related monetary instruments for delinquent taxes is not required.

Preparing to Seize Tangible Personal Property

If the seizure of bank accounts does not yield the full amount of taxes due, it may be necessary to seize other tangible personal property. Doing so will require that several tasks be performed prior to the actual seizure.

As with most collection efforts involving the seizure of tangible personal property, owners of such property may initiate actions (e.g. selling, damaging, or concealing the property) just prior to the seizure or sale that can affect the seizure or sale of property.

Pre-seizure Resources and Documentation

If the property is being seized pursuant to [§2953](#) (Jeopardy Seizure), a copy of State Controller’s Office sample form, *Declaration of Intent to Seize Property (SCO 2-05)* must be provided to the assessee of the property at the time of the seizure. Proceed to [Preparing a Declaration of Intent to Seize Property](#). If the property is being seized and the taxes are currently delinquent, it is not necessary to provide any seizure-intent documentation.

Step 1: Develop a list of items that may be helpful for seizing property. Helpful items may include:

- Painters tape for securing notices to premises or seized items;
- Receipt book;
- Heavy duty chain and coated lock;
- Camera to document seized items and their condition when seized;
- Tie-downs to secure planes or other movable property;
- Clear sheet labels or laminated labels (to prevent ink or color stains on items where notices are attached);
- Bolt cutters; and,
- Key blocks.

Step 2: Develop a contact list of support staff, including but not limited to:

- The tax collector staff (minimum of two people for witnesses);
- The sheriff or other law enforcement official; and,

- A locksmith.

Step 3: Develop a file for the sale. See the State Controller’s Office sample form, *Record of Seizure and Sale* ([SCO 2-06](#)).

Seizing Tangible Property

Step 1: Check the tax records to confirm that the property has not been sold or transferred from the current assessee owing tax on the property.

Step 2: Determine whether any of the following applies to the property slated for seizure:

- The property is money from sales transactions. If so, proceed to [Unsecured Property Tax Collection Manual, Volume V, Section 5: Till Tap/Keeper’s Levy](#).
- The property is personal property not associated with a business or situated at a corresponding business location. If so, review [Additional Recommended Seizure Procedures](#) for additional elements to consider in the seizure.
- The property has a third-party payment arrangement. If so, review [Additional Recommended Seizure Procedures](#) for additional elements to consider in the seizure.
- The property is a vehicle or vessel. If so, review [Additional Recommended Seizure Procedures](#) for additional elements to consider in the seizure.

Additional Recommended Seizure Procedures

If an establishment or business is in operation when property is to be seized, consider allowing the business to continue to operate, with merchandise and money available for operation. If the assessee does not pay the taxes and fees shortly after a business seizure, the keeper should remove all cash not necessary to operate the business. The cash removed serves as partial payment of taxes.

If the business operation has a third-party payment arrangement (such as leased equipment), consider:

- Having the third-party (e.g. the lessee or renter) act as the keeper; and,
- Directing the third party to make the lease payment to the tax collector instead of the lessor.

Note: This may include trust deed payments in which the property was sold before the tax bill was issued.

- Research the chain of title in the County Recorder’s Office. The document after the deed of transfer may disclose evidence that the new owner is paying the former owner on a second or other deed of trust.
- Direct the new owner to make the payment to the tax collector instead of to the old owner.

If the property being seized is a vehicle, vessel, or airplane, consider doing the following:

- Contact local law enforcement officials before securing the property as a means to prevent any potential altercations should the owner of the property be present.
- Take photos to document the condition of the property prior to any action.
- Have vehicles towed, if necessary, by a professional towing service and secure the vehicle in an impound yard or storage building.

Step 1: Determine whether or not law enforcement should be present. Law enforcement presence is recommended if the seizure is to take place in a high-profile or highly public area.

Step 2: If necessary, contact a locksmith and law enforcement official and schedule them to arrive approximately ten minutes prior to the scheduled time of the seizure of the business.

Step 3: Gather and bring the following items to the seizure:

- Seizure file (tax bill documents, etc.);
- Receipt book;
- Seizure notices for posting;
- Receptacle to receive and store payments, if collected; and
- Camera.

Step 4: Once all parties are present, proceed into the business.

Step 5: Ask to speak to the owner (assessee) whose name appears on the tax bill.

Note: Employees may inquire about the nature of the request. Refrain from divulging details. Inform them that the issue is related to a personal matter concerning the assessee.

Step 6: Once the assessee is present, you should:

- Provide the assessee with a copy of the *Declaration of Seizure* form;
- State that certified mail has been sent informing them of the impending seizure;
- State the amount of taxes and penalties owed; and,
- Explain that taxes will be collected immediately, and if payment cannot be made the business must be seized. Explain that seizure entails evacuation of all people on the premises and either changing the locks, key blocking, or chaining the doors if the entrance is a double door.

Note: If the assessee agrees to make payment but states that he or she needs some time, the recommended allowance is 60 to 90 minutes. The time afforded is at the discretion of the tax collector.

Note: During the seizure, do not accept any gifts, food, drink, or service from the business or engage in any other conversation not pertinent to the seizure.

Step 7: Determine whether or not full payment was made.

- If the assessee made a full payment, provide a receipt and inform the assessee that the business will not be seized; or
- If payment was not or could not be made, explain to the owner that:
 - The assessee and the employees, if any, must vacate the premises;
 - A locksmith will change the locks; and,
 - The assessee may make payment any time prior to the sale and at that point, will be given the keys for the new locks.

Step 8: Authorize the locksmith to change the locks on all entrances and exits.

Step 9: Post seizure notices at all entrances and exits.

Step 10: Make a record of all property seized ([§2952](#)). See the State Controller’s Office sample form, *Record of Seizure and Sale* ([SCO 2-06](#)).

Note: Photos or video recording may be used as a substitute for a written inventory.

Step 11: If it is necessary to safeguard seized property, place it in the custody of a third party. The third party must hold the property until relieved from that duty. Proceed to the next section, [Keeper Procedures](#).

Keeper Procedures

Seized property may need to be safeguarded if it cannot be secured within the business premises. A third party may be contracted to take custody of the property. Such a third party is referred to as a “keeper.” The following describes the procedures and pertinent information concerning a keeper.

Step 1: Contract with a keeper.

Step 2: Complete an *Appointment of Keeper* form and incorporate into the seizure file. See State Controller’s Office sample form, *Appointment of Keeper* ([SCO 2-07](#)).

Fee Schedule for various keeper duties:

- \$135—Opening a safe-deposit box pursuant to Code of Civil Procedure [§488.460](#) and [§700.150](#), and Government Code [§26723](#).
- \$140 for every 8-hour period, not to exceed more than \$300 per keeper during any 24 hour period—For keeping and caring for property under a writ of attachment, execution, possession, or sale pursuant to Government Code [§26726](#).
- \$40 per day—Additional fee for maintaining custody of the property for each day that custody is maintained after the first day Government Code [§26726](#).

Section 5: Sale of Seized Property

Preliminary Actions – Scheduling and Noticing

Before property is sold, assessee's must be offered an administrative hearing. However, when the property seized is a bank account, an administrative hearing may be offered to the assessee as a courtesy but it is not required. The hearing may be conducted by the tax collector's office, officers from other county departments, or any other third party the tax collector deems appropriate.

Note: It is unconstitutional to sell seized property (material) without affording the owner an administrative hearing (*T.M. Cobb Co. v. County of Los Angeles*, 128 Cal. Rptr. 655; 16 Cal. 3d 606).

The purpose and scope of the administrative hearing determines whether:

- The taxes were validly levied against the assessee;
- The taxes are still unpaid;
- The assessee has an interest in the seized property; and/or,
- There is a valid reason as to why the property should not be sold for taxes due.

Note: Issues pertaining to over-valuation of the assessment on which the taxes have been levied are not within the scope of the hearing.

Step 1: Determine whether full payment on the property has recently been received.

- If so, cease any further collection action; or,
- If not, proceed to Step 2.

Step 2: Determine whether the assessee has initiated any bankruptcy action.

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- If the assessee has filed bankruptcy proceedings, cease all collection action and seek guidance from county counsel; or,
- If the assessee is not in bankruptcy, proceed to Step 3.

Step 3: Notify the assessee that he or she has a right to an administrative hearing prior to the sale of the seized property. See the State Controller's Office sample form, *Request for an Administrative Hearing* ([SCO 2-33](#)).

Note: Give the assessee a deadline by which to exercise his or her right to request a hearing. Ten days from receipt of notice is the recommended deadline.

- If the assessee responds and requests a hearing within the deadline, proceed to Step 4; or,
- If the assessee does not respond within the prescribed deadline or waives his or her right to a hearing, proceed to [Notice of Sale](#).

Step 4: Send an *Administrative Hearing Notice* to the assessee. See the State Controller’s Office sample form, *Administrative Hearing Notice* ([SCO 2-34](#)). The notice should contain the date and location of the hearing, and should be sent within ten days of receipt of the hearing request letter from the assessee.

Step 5: Conduct the hearing. The law does not provide for any formal content or format requirements, so the particulars of the hearing format may be set by the tax collector, if not already set forth by county ordinance. Following are some recommendations for conducting hearings:

- Arrange a private meeting room.
- Ensure that at least two staff members are present to serve as moderators/witnesses.
- Announce to the assessee that the hearing will be electronically recorded.
- Provide written documents outlining the details of the seizure actions, including:
 - Collection procedures and notices provided prior to seizure;
 - Code sections authorizing the seizure action;
 - Code sections providing for an administrative hearing;
 - Outline of seizure actions taken and intended sale proceedings;
 - Amount of taxes due, with calculations; and
 - Any other pertinent information.
- Inform the assessee that the tax collector will render a determination of the proceedings. Advise the assessee that he or she will be notified by letter and the time frame by which he or she should expect to receive the information.

Step 6: Within five business days of the conclusion of the hearing, send a letter to the assessee describing the determination.

- If payment was arranged and completed following the meeting, cease all sale actions and release the property to the assessee.
- If payment is still outstanding or disputed, proceed to the next section, [Notice of Sale](#).

Notice of Sale

Step 1: Prepare a notice for the sale of the seized property and circulate. See the State Controller’s Office sample form, *Notice of Sale for Unsecured Property Taxes* ([Figure 9.9](#)). Circulation includes:

- A posting of the *Notice of Sale*. It is recommended that the posted notice include a “DO NOT REMOVE” statement.
- (Optional) A published *Notice of Sale*.

Step 2: Post the *Notice of Sale* on the property premises. Be sure to post on all entryways with a secure adhesive.

Note: The notices should be posted on glass, where possible, to avoid any paint or other texture damage.

Step 3: If you have reason to believe the assessee will not redeem the property, then you may elect to expand the notice opportunity by publishing a *Notice of Sale* at least one week prior to the date of sale ([§2957](#)). Be sure to post the *Notice of Sale* in three public places ([§2957](#)).

Whether posting or publishing, include the following in the notice:

- The date and time of the sale ([§2957](#));
- The location of the sale ([§2957](#)); and,
- That the property may be redeemed by the owner up to just prior to being sold at auction ([§2959](#)).

Note: In [Gentillalli v. San Diego County \(1966\), 240 Cal. App. 2d 456](#), the court ruled that the owner had the right to redeem property up to the point just prior to the time of payment for the property sold.

Step 4: Calculate the amount of proceeds necessary to cover the taxes, penalties, and all actual costs incurred by the county ([§2922\(e\)](#) and [§2958](#)). This includes, but is not limited to:

- Advertising;
- Mileage and keeper's fees; and,
- A fee not exceeding \$15 for each seizure.

Step 5: Inventory the property items and determine how they might be offered. Each item may be offered as a separate article or one or more items, or all of the items, may be offered as a collective article.

Step 6: Set the opening bids for the items such that they will sell and that the amounts collected will have a strong likelihood of covering the taxes due.

Note: It is not required to have seized assets appraised or to obtain a minimum bid for each item. However, in cases in which the property is encumbered, it may be appropriate to establish a minimum bid.

Conducting the Sale

Step 1: The sale must be conducted in a public auction format and held at the time and location described in the *Notice of Sale*.

Step 2: Read a sale preamble covering the various elements of the sale prior to opening the items for bid. See the State Controller's Office sample form, *Unsecured Property Tax Sale Preamble* ([SCO 2-36](#)).

Step 3: Announce the following:

- The sale shall be by public auction ([§2958](#));
- The sale will terminate upon acceptance of the highest bid;

- The property may be redeemed by the owner any time prior to sale of the property—the sale of property defined as the bid price being paid and the property being delivered with the bill of sale ([§2959](#)); and,
- Acceptable forms of payment.

Step 4: Announce the property up for bid, the opening bid amount, and the bidding increments.

Step 5: Each bid shall be confirmed with the bidding audience and an offer made to raise it.

Note: Opening and subsequent bids are only "received," whereas the final bid is "accepted."

Step 6: Announce the last and highest bid as the winner.

Step 7: The property is sold when the final bid is accepted by the auctioneer and the payment has been completed ([§2959](#)).

Note: At any time prior to sale of property, including prior to actual payment by the winning bidder, the assessee may produce funds to redeem the property and the auction/sale will be terminated ([§2959](#)).

Step 8: Prior to the termination of the sale, payment must be completed by the winning bidder(s). To ensure valid funds, it is recommended that only forms of payment that can be verified as indicated in the *Notice of Sale* be accepted.

Note: If payment is accepted by personal check, it is recommended that the bill of sale not be executed and delivered until the check has cleared the bank.

Step 9: Provide the winning bidder with a bill of sale. See the State Controller's Office sample form, *Bill of Sale* ([SCO 2-08](#)).

Step 10: The sale terminates upon completion of payment and title vests with the purchaser ([§2960](#)).

Post-sale Actions

Step 1: If any unsold property remains, the assessee should be notified in order to safeguard or reclaim the property.

Note: The unsold portion of any seized property may be left at the place of sale at the risk of the owner ([§2962](#)).

Step 2: As a best practice, deposit the sale proceeds in the following manner:

- The portion representing taxes and penalties should be apportioned like other receipts on the unsecured roll.

- The portion of the costs representing keeper's fees should be credited to a trust fund, against which warrants may be drawn for paying keepers.
- The balance of the costs specified in [§2958](#) should be deposited into a county fund.

Step 3: Contact the county assessor and supply all of the updated assessee information related to the property sold.

Step 4: Process the excess proceeds accordingly:

- Proceeds of the sale in excess of taxes, penalties, and costs should be credited to the property owner. Until claimed, the excess shall be deposited in the county treasury, subject to the order of the owner or his successor in interest ([§2961](#)).
- As a best practice, send a notice to claim excess proceeds to owner(s) of record prior to the seizure and sale. See the State Controller's Office sample form, *Notice of Right to Claim Excess Proceeds (Parties of Interest)* ([Figure 9.8](#)) ([§3701](#)).
- If not claimed within three years after the date of sale, unclaimed excess proceeds revert to the county ([§2961](#)).

After the post-sale actions have been executed, the process is complete and no further action is required.

Section 6: Sample Forms

The following is a list of SCO sample forms relevant to the preparation and execution of the seizure and sale processes as detailed in this manual.

Declaration of Intent to Seize Property.....	SCO 2-05
Record of Seizure and Sale.....	SCO 2-06
Appointment of Keeper.....	SCO 2-07
Bill of Sale.....	SCO 2-08
Seizure Notice for Taxes.....	SCO 2-27
Request for Administrative Hearing.....	SCO 2-33
Administrative Hearing Notice.....	SCO 2-34
Notice of Public Auction of Seized Property.....	SCO 2-35
Unsecured Property Tax Sale Preamble.....	SCO 2-36
Notice of Right to Claim Excess Proceeds (Parties of Interest).....	Figure 9.8
Notice of Sale for Unsecured Property Taxes.....	Figure 9.9

To view an electronic copy of this volume visit:

The State Controller's Website

http://www.sco.ca.gov/ardtax_unsecured_proptax_collection_manual.html

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