

**COUNTY OF SAN DIEGO, CALIFORNIA**  
**BOARD OF SUPERVISORS POLICY**

<b>Subject</b> Authorization for the County Treasurer-Tax Collector to Act for the Board of Supervisors to Implement Revenue and Taxation Code Section 3731 to Provide for Rescission of Tax Sales of Tax-Defaulted Property	<b>Policy Number</b>	<b>Page</b>
	B-57	1 of 3

**Purpose**

To implement the Board of Supervisors resolution adopted pursuant to Revenue and Taxation Code Section 3731.1 which authorizes the County Treasurer-Tax Collector to execute the Board's authority to provide for the rescission of tax-sales of tax-defaulted property and for refunds of the purchase price and taxes paid with respect to the rescission of the sales of tax-defaulted property.

**Background**

Revenue and Taxation Code Section 3731.1 was amended by Chapter 316 of the 1985 Statutes to permit a board of supervisors to authorize any county officer to perform on its behalf any act required or authorized to be performed by the board under Revenue and Taxation Code Sections 3731. Section 3731 relates to the rescission of tax-sales of tax-defaulted property where it is determined that the property should not have been sold.

**Policy**

It is the policy of the Board of Supervisors that:

1. Pursuant to Revenue and Taxation Code Section 3731.1 the County Treasurer-Tax Collector is authorized to perform on behalf of this Board the following specified acts:

a.	As authorized by Revenue and Taxation Code Section 3731, when a tax deed to a purchaser of property sold by the Treasurer-Tax Collector is recorded and it is determined that the property should not have been sold, the sale may be rescinded by the Treasurer-Tax Collector with the written consent of County Counsel and the purchaser of the property or a successor in interest in the property under any of the following circumstances: <ol style="list-style-type: none"><li>1. The property has not been transferred or conveyed by the purchaser at the tax sale to a bona fide purchaser for value.</li><li>2. The property has not become subject to a bona fide encumbrance for value subsequent to the recordation of the tax deed.</li></ol>
b.	If the written consent of the purchaser of the property or a successor in interest is not obtained pursuant to subdivision (a), the sale may be rescinded by the Treasurer-Tax Collector pursuant to the circumstances specified in subdivision (a), if both the following conditions are met: <ol style="list-style-type: none"><li>1. Notwithstanding section 3731.1, a hearing is scheduled before the Treasurer-Tax Collector.</li><li>2. (A) A notification is provided to the purchaser of the property or a successor in interest that contains all of the following information:<ol style="list-style-type: none"><li>i. The date, time, and place of the hearing.</li></ol></li></ol>

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**Policy Number**

**Page**

B-57

2 of 3

	<p>ii. A description of the property that was sold.</p> <p>iii. The reason for rescinding the sale of the property.</p> <p>iv. A statement that a refund will be issued to the purchaser of the property or a successor in interest, if applicable, for the purchase amount of the property plus interest at the county pool apportioned rate as specified in Section 5151 from the date of purchase of the property.</p> <p>(B) The Treasurer-Tax Collector shall send the notice, not less than 45 days prior to the date of the hearing, to the purchaser of the property or a successor in interest by certified mail with return receipt requested. The notice shall be sent to the last known mailing address of the purchaser or a successor in interest.</p>
c.	<p>When the sale of tax defaulted property is rescinded pursuant to this section, the purchaser or a successor in interest is entitled to a refund of the amount paid as the purchase price plus interest at the county pool apportioned rate as specified in Section 5151 from the date of the purchase of the property after rescission of the tax deed is recorded.</p>
d.	<p>The Treasurer-Tax Collector shall record the rescission with the County Recorder, without charge, and if rescinded pursuant to subdivision (a), also by the purchaser or a successor in interest. The signature of both the county Treasurer-Tax Collector and the purchaser or a successor in interest shall be acknowledged by the County Clerk, without charge.</p>
e.	<p>In counties where tax certificates are sold, holders of tax certificates are not obligated to make any refund or repayment of any amount to the purchaser, the delinquent taxpayer, the county, or any other person.</p>
f.	<p>Subdivision (b) shall apply to sales that are completed on or after January 1, 2010.</p>
g.	<p>A proceeding may be commenced in a court pursuant to Section 3725 only if the person commencing the proceeding first petitions the Treasurer-Tax Collector to rescind the sale of a tax deed pursuant to this section.</p>

2. Auditor and Controller to keep records. As required by Revenue and Taxation Code Section 3731.1, the County Auditor and Controller shall record each act performed under the authorization provided for herein.

Sunset Date

This policy will be reviewed for continuance by 12-31-20.

References

B/S Action 11-6-84 (43)

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**Policy  
Number**

**Page**

B-57

3 of 3

B/S Action 12-15-87 (36)

B/S Action 4-4-95 (28)

B/S Action 6-15-04 (25)

B/S Action 03-14-06 (11)

B/S Action 12-09-08 (33)

B/S Action 11-05-13 (19)

CAO Reference

1. Treasurer-Tax Collector