

**County of Ventura**  
**AUDITOR-CONTROLLER**  
**MEMORANDUM**

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**To:** Honorable Steven Hintz, Treasurer-Tax Collector

**Date:** April 8, 2015

**From:** Jeffery S. Burgh

**Subject:** AUDIT OF TAX COLLECTOR REDEMPTIONS

As mandated by Revenue and Taxation ("R&T") Code Section ("§") 4108.5, we have completed our audit of Tax Collector Redemptions. Our overall objective was to evaluate the Tax Collector's redemption records and accounts from July 1, 2010, through June 30, 2013, to determine the Tax Collector's compliance with R&T Code §§ 4101 through 4379. The audit was conducted in conformance with the *International Standards for the Professional Practice of Internal Auditing* promulgated by The Institute of Internal Auditors. Our findings are summarized below with details provided in the attached report.

**EXECUTIVE SUMMARY**

Overall, we found that the Tax Collector satisfactorily managed the redemption process and complied with applicable R&T Codes. For example, we confirmed that redemption amounts were accurately calculated, charged, and collected. Further, we noted that Redemption Installment Trust monies were reasonably stated and collection reports were promptly submitted to the Auditor-Controller. We also verified that the Tax Collector refunded monies held in trust to taxpayers as appropriate and in a timely manner.

We also verified that proper corrective action had been taken to address all four issues noted in our prior audit report dated April 27, 2011, regarding:

- Reviewing suspense items in the Tax Collector Trust account regularly to ensure timely resolution.
- Ensuring that Five Year Installment Plans ("Installment Plans") are not established for properties eligible for auction.
- Revising the Reinstated Installment Plan Form to allow the taxpayer to request a receipt for payments.
- Displaying paid redemption totals correctly on the WebTax Inquiry page at the Tax Collector website.

However, during the current audit, we noted that the redemption process could be improved by:

- Ensuring that estimated Installment Plan payments are calculated in accordance with the R&T Codes.
- Confirming that Installment Plan Forms are appropriately maintained, signed, and dated.

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- Providing receipts to taxpayers for mailed Installment Plan payments when requested on the Installment Plan Form.
- Charging the appropriate Parties of Interest Report of Title fee to taxpayers.
- Communicating the proper redemption amount corresponding with the "if paid by" date to taxpayers on the Notice of Sale of Tax-Defaulted Property.
- Strengthening document retention procedures to comply with R&T Codes.
- Modifying the WebTax Tax Payment History page on the Tax Collector's website to display all paid redemptions for the calendar years presented.

Except as noted in the attached report, Tax Collector management initiated corrective action to address our findings. Corrective action is planned to be completed by June 30, 2015.

We appreciate the cooperation and assistance extended by you and your staff during this audit.

Attachment

cc: Honorable Kathy Long, Chair, Board of Supervisors  
Honorable Linda Parks, Vice Chair, Board of Supervisors  
Honorable Steve Bennett, Board of Supervisors  
Honorable Peter C. Foy, Board of Supervisors  
Honorable John C. Zaragoza, Board of Supervisors  
Michael Powers, County Executive Officer

County of Ventura  
Office of the Auditor-Controller



AUDIT OF TAX COLLECTOR REDEMPTIONS

April 8, 2015

Jeffery S. Burgh  
Auditor-Controller

## AUDIT OF TAX COLLECTOR REDEMPTIONS

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## AUDIT OF TAX COLLECTOR REDEMPTIONS

### BACKGROUND

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The Tax Collector manages the redemption of tax-defaulted secured property (i.e., real property, such as land and structures). Secured property becomes tax-defaulted when the total taxes due and any delinquent penalties and costs are not fully paid by the close of business on June 30 of each year. The act of redemption involves the payment of all defaulted taxes and related penalties, fees, and costs before the property becomes subject to the power to sell by the Tax Collector.

The redemption process is regulated by Revenue and Taxation ("R&T") Code Sections ("§§") 4101 through 4379. Of the \$3.6 billion in secured property taxes charged during the 3-year period of July 2010 through June 2013, nearly \$62 million (1.7%) was declared tax-defaulted and transferred to redemption status.

### SCOPE

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Our overall audit objective was to evaluate the Tax Collector's redemption records and accounts from July 1, 2010, through June 30, 2013, to determine the Tax Collector's compliance with R&T Code §§ 4101 through 4379. Specifically, we:

- verified that redemption amounts and fees were appropriately charged and collected;
- reviewed the appropriateness of certificates of redemption;
- verified that the Tax Collector properly accounted for monies collected to the Auditor-Controller;
- determined whether the abstract lists (i.e., records of redemption) were adequately maintained; and
- determined whether Redemption Installment Trust ("RIT") monies were accounted for properly.

Further, we evaluated whether corrective action had been taken to address the four issues noted in our prior audit report dated April 27, 2011, regarding:

- performing timely supervisory reviews of redemption suspense items in the Tax Collector Trust account;
- ensuring that Five Year Installment Plans ("Installment Plans") are not established for properties eligible for auction;
- revising the Reinstated Installment Plan Form to notify taxpayers of the right to receive a receipt for payments made by mail; and
- displaying all paid redemption totals on the WebTax Inquiry page at the Tax Collector website.

We performed audit tests and evaluations using documents provided by the Tax Collector and the Auditor-Controller's Office. The audit was performed in conformance with the *International Standards for the Professional Practice of Internal Auditing* promulgated by The Institute of Internal Auditors using documents from July 2001 through July 2013.

### FINDINGS

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Overall, we found that the Tax Collector satisfactorily managed the redemption process and complied with the R&T Code. Specifically, our audit confirmed that:

- Redemption amounts were accurately calculated, charged, and collected.
- The Tax Collector submitted collection reports promptly to the Auditor-Controller.
- RIT monies were reasonably stated and any variances were resolved timely.
- The Tax Collector refunded monies held in trust to taxpayers as appropriate and in a timely manner.

We also confirmed that the Tax Collector had taken proper corrective action to address the issues in our prior audit report. Specifically, we verified that:

- Suspense items in the Tax Collector Trust account were reviewed regularly to ensure timely resolution.
- Installment Plans were not established for properties eligible for auction as appropriate.
- The Reinstated Installment Plan Form provided taxpayers with the option to request a receipt.
- The Tax Collector's online WebTax Inquiry page correctly displayed paid redemption totals.

However, our audit disclosed several areas where actions were needed to improve the management of the redemption process. Specifically, changes in Installment Plan procedures were needed to ensure that estimated Installment Plan payments are calculated in accordance with the R&T Codes. Improvements were also needed to ensure that Installment Plan Forms are maintained, signed, and dated, and that receipts are provided for mailed Installment Plan payments when requested on the Installment Plan Form.

Procedures should be formalized to ensure that the appropriate Parties of Interest Report of Title ("PIRT") fee is charged to taxpayers. Also, the Tax Collector should ensure that the redemption amount corresponds with the "if paid by" date that is communicated on the Notice of Sale of Tax-Defaulted Property.

Periodic reviews should be scheduled to ensure that all redemption receipt and abstract list records are readily accessible as mandated by the applicable R&T Codes. Also, modifications to the Tax Collector's online WebTax Tax Payment History page were needed to ensure that all paid redemptions were displayed for the calendar years presented.

Following are details of the areas where improvements were needed. Except as noted in Finding 1(C), the Tax Collector initiated corrective action during the audit.

1. **Installment Plan Improvements.** Improvements were needed to promote consistency and accuracy in the application of Installment Plan procedures. The Tax Collector oversees Installment Plans, which allow taxpayers to make payments on defaulted taxes over a 5-year period beginning the date the Installment Plan is initiated. During our audit, we noted areas to better comply with applicable R&T Codes, mitigate the risk of disagreement with taxpayers, and increase efficiency in customer service.
  - A. **Installment Plan Payments.** The Tax Collector's calculation of the estimated five Installment Plan payments did not always meet the requirements of the applicable R&T Codes. Pertinent R&T Codes state:

- § 4216(a): "Redemption amount" means the total amount which would be necessary to redeem tax-defaulted property at the time an election is made to pay delinquent taxes in installments...."
- § 4216(b): "Balance of the redemption amount" is the amount equal to the difference between the redemption amount and the total of the portions previously paid...."
- § 4219: "Election to pay delinquent taxes in installments is made by payment, in the same manner as a redemption, of 20 percent, or more, of the redemption amount."
- § 4221: "In each succeeding fiscal year the redemptioner shall pay...(a)(1) 40 percent...(a)(2) 60 percent...(a)(3) 80 percent...(a)(4) 100 percent of the redemption amount...."
- § 4221(d): "...interest shall be computed at the rate of 1½ percent per month accruing on the first day of each month following the preceding payment, on the balance of the redemption amount."

Therefore, taxpayers may elect to pay more than 20 percent of the redemption amount to start an Installment Plan, but are not required to pay more than 20 percent. Payments must then be made to ensure the original redemption amount is reduced by at least 20 percent in each succeeding fiscal year. Interest accrues monthly on the unpaid balance after the first payment. However, the Tax Collector estimated five equal payments over the course of the Installment Plan by combining future interest with the redemption amount. As a result, the payment schedule provided on the Installment Plan Form overestimated the first payment, and subsequent required payments were not always sufficient. Specifically:

- Taxpayers were required to pay more than 20 percent of the redemption amount for the first payment in noncompliance with R&T Code § 4219, which could inhibit a taxpayer from starting an Installment Plan. For example, for one Installment Plan we reviewed, the Tax Collector's method required payment of 29 percent of the redemption amount.
- If the taxpayer makes the estimated annual payments stated on the Installment Plan Form, the required redemption amount due may be less than is required by R&T Code § 4221. For the above mentioned Installment Plan example, the Tax Collector's method would have reduced the redemption amount for the second, third, and fourth annual payments on a cumulative basis by only 37, 55, and 76 percent, respectively, rather than the requisite 40, 60, and 80 percent.
- The County may collect less annually if the taxpayer chooses to only pay according to the estimated plan payments. For the above mentioned Installment Plan example, the cumulative total collected as of the second, third, and fourth annual payments would have been 8, 8, and 5 percent less, respectively, than if the Tax Collector had calculated annual payments in accordance with R&T Code § 4221.

**Recommendation.** The Tax Collector should consider following the guidance provided in the State Controller's County Tax Collectors' Reference Manual for Installment Plan payments. The Tax Collector should provide the taxpayer with the minimum amount to start an Installment Plan required by R&T Code § 4219, and the taxpayer can elect to pay more. If the Tax Collector wishes to provide an estimate to the taxpayer for subsequent payments due each fiscal year, the total amounts due should reflect the amounts required by R&T Code § 4221. Also, in March of fiscal years when a payment is due, the Tax Collector should ensure the taxpayer's Installment Plan bill reflects the payment due as of April 10 required by R&T Code § 4221. Moreover, the Tax Collector should ensure that the required payment amount each fiscal year complies with R&T Code § 4221.

**Management Action.** Tax Collector management stated:

"We concur with the audit finding. When previous management initiated the program to redeem a property through installment payments, the decision was made at that time to allow taxpayers the stability of an even payment plan. The intent of the calculation was to ensure full compliance with the R&T codes while also providing taxpayers with a means to redeem property, which was to increase efficiency in customer services as referenced in the finding.

"Applying the proposed methodology from the Auditor-Controller's Office to the plan referenced in the finding, once taxpayers met the initial 20% payment, or \$67,000, subsequent payments would increase substantially. Specifically, in years 2-5 of the installment plan, payments would increase to \$144,000 (214%), \$103,000 (154%), \$91,000 (136%), and \$79,000 (118%) respectively, while we estimated five equal payments of \$97,000.

"Although we feel that the even payment plan would significantly reduce the likelihood of taxpayers defaulting on the installment plan, we will continue to explore options that maximize the efficiency and effectiveness of the program to the taxpayers, while also ensuring compliance with the R&T Codes."

- B. **Installment Plan Forms.** The Tax Collector did not always ensure that appropriate documentation was maintained to confirm that the taxpayer understood the Installment Plan requirements. Of the 22 Installment Plan Forms we requested for review, 1 Installment Plan Form could not be located and 1 Reinstated Installment Plan Form was not signed and dated by the taxpayer. The forms confirm the request for the Tax Collector to initiate an Installment Plan and state the estimated redemption payments due annually. By signing and dating the forms, the taxpayer confirms that the requirements to maintain the Installment Plan have been read and understood. Lack of a taxpayer's signed form could limit the Tax Collector's recourse in the event of a disagreement.

**Recommendation.** Tax Collector management should perform periodic supervisory reviews of Installment Plan Forms to help mitigate occurrences of missing forms and alert staff to follow-up on unsigned forms.

**Management Action.** Tax Collector management stated: "We concur with the audit finding. We did however, provide support documentation to the auditor showing that the missing Installment Plan was paid in full. The taxpayer file with the Reinstated Plan also contained a related initial Installment Plan and subsequent Reinstated Plan, both of which did contain appropriate signatures. Nevertheless, we have instructed supervisory staff to conduct periodic reviews for accuracy and completeness."



- C. **Installment Plan Receipts.** The Tax Collector did not always provide receipts to taxpayers as requested on the Installment Plan Form. According to R&T Code § 4106.1: "The redemption certificate or installment plan form shall contain a statement that receipts will not be issued for payments made by mail unless a receipt is requested by the person making payment, and an appropriate place in which the taxpayer may request a receipt shall be provided on the redemption certificate and the installment plan form." The Tax Collector did provide a place on the Installment Plan Form to request a receipt. However, receipts were not always sent to taxpayers who had checked the box on the form and mailed installment payments unless another request for a receipt was made by the taxpayer.

**Recommendation.** When an Installment Plan payment is received by mail, Tax Collector staff should refer back to the Installment Plan Form record to ensure that a receipt is mailed if requested. The wording on the Reinstated and Installment Plan Forms could also better clarify that the box checked to request a receipt is for "payments made by mail". Because the Tax Collector provides receipts for payments made in person as part of regular operations, this revised wording may facilitate staff's understanding of the taxpayer's request for payments made by mail.

**Management Response.** Tax Collector management stated: "We concur, in part, with the audit finding. While we agree that the wording on the Installment Plan forms could be clarified further, we always provide receipts to taxpayers if requested, whether indicated on the Installment Plan Form or requested in person. We believe that we have satisfied the requirement of R&T Code § 4106.1 to provide a receipt for payments made by mail upon request. Based on our interpretation of the requirements set forth in R&T Code § 4106.1, receipts for mailed payments are to be issued, if requested, at the time of remittance. We do not agree that staff should refer back to the Installment Plan records to determine whether the box was checked. Taxpayers must request a receipt for every payment, which we will provide without cost to the taxpayer. We will re-evaluate the wording on the Installment Plan form and continue to provide receipts to taxpayers for mailed payments upon request."

**Auditor's Comment.** We have noted that Tax Collector management does not intend to fully implement corrective action in response to this finding. As we recommended, we believe practical solutions exist to ensure that taxpayers are sent a receipt for each Installment Plan payment if originally requested on the Installment Plan Form without the need for the taxpayer to again request a receipt from the Tax Collector. We also believe this is the intent of R&T Code § 4106.1.

2. **Tax-Defaulted Property Subject to Power to Sell.** Procedures were in need of improvement to facilitate payment of proper amounts related to redemptions of tax-defaulted properties that become subject to the power to sell. The Tax Collector has the power to sell properties that have been tax-defaulted for 5 or more years and have not been redeemed or enrolled in an Installment Plan. Although fees were charged and parties were notified of amounts needed to redeem such properties, we noted instances where fees charged and notification were not always accurate.
- A. **PIRT Fee.** The Tax Collector did not always charge the PIRT fee in effect at the time the fee was paid. When a tax-defaulted property subject to the power to sell is redeemed, R&T Code § 4112 states that "the tax collector shall collect...A fee to reimburse the county for its actual and reasonable costs incurred in obtaining the names and last known mailing addresses of, and for mailing notices...to, parties of interest..." (i.e., Parties of Interest Report of Title fee or PIRT fee).

The PIRT fee is determined each year by the Tax Collector and approved by the Board of Supervisors ("BOS"). Of the four tax-defaulted properties subject to the power to sell selected for review, three (75%) were redeemed in fiscal year ("FY") 2012-13 after the BOS had approved the FY 2012-13 PIRT fee of \$700. However, all three (100%) were charged the prior year's PIRT fee of \$804. A refund could be owed to taxpayer, or the County could receive less than the BOS-approved amount owed by a taxpayer, if fees are not applied properly.

**Recommendation.** Policies and procedures should be formalized by Tax Collector management to ensure that the PIRT fee is consistently charged to taxpayers corresponding to the fiscal year that the property is redeemed.

**Management Action.** Tax Collector management stated: "We concur with the audit finding. Going forward, TTC (Treasurer-Tax Collector) Management will conduct property auctions, if required, within the same fiscal year to mitigate timing issue concerns."

- B. **Notice of Sale of Tax-Defaulted Property.** The Tax Collector did not always accurately communicate the amount necessary to redeem a property by the date reported on the Notice of Sale of Tax-Defaulted Property. R&T Code § 3701 requires that the Tax Collector's Notice of Sale of Tax-Defaulted Property, which is mailed to parties of interest prior to selling a tax-defaulted property, "shall state the date, time, and place of the proposed sale, the amount required to redeem the property, and the fact that the property may be redeemed up to the close of business on the last business day prior to the date of the sale...." Our review of four notices disclosed that one (25%), mailed in July 2012, stated: "Redemption amount: \$48,392.53, if paid by 5:00PM August 28, 2012." However, the amount stated on the notice actually corresponded to the amount necessary to redeem the property by July 31, 2012. As the taxpayer redeemed the property in August 2012, additional interest of \$474 had accrued at the point of redemption. Taxpayers may not send the correct amount to redeem the property if the notice is not clear as to the redemption amount corresponding to the appropriate "if paid by" date.

**Recommendation.** Tax Collector management should ensure that the redemption amount corresponds with the "if paid by" date communicated on the Notice of Sale of Tax-Defaulted Property.

**Management Action.** Tax Collector management stated: "We concur with the audit finding. TTC Management will implement additional reviews to ensure the accuracy of the redemption amounts."

3. **Record Retention Procedures.** Improvements were needed to strengthen the Tax Collector's record retention procedures. During our audit, we noted instances of noncompliance with R&T Code §§ 4107 and 4377 specific to redemption certificates and abstract lists, respectively. These records for FY 2003-04 could not be located during our audit, although each R&T Code required retention for least 12 years, or back to FY 2001-02. Also, Government Code § 26205(c) requires these records, which are retained on substitute media, to be "placed in conveniently accessible files and (that) provision is made for preserving, examining, and using the files." Although taxpayers may not need such aged records at this late date, management was not aware of the deficiency in the storage of these documents, which could impact availability of documents in the future.

**Recommendation.** Tax Collector management should periodically review records to help ensure that at least 12 years of files are properly maintained and accessible.

**Management Action.** Tax Collector management stated: "We concur with the audit finding. We will conduct periodic reviews of pertinent records to ensure R&T Code compliance."

4. **Online Payment History.** The WebTax Tax Payment History page on the Tax Collector's website did not display all paid redemptions for the calendar years presented. To review recent tax payments online, taxpayers must first navigate to the WebTax Property Listing page (i.e., WebTax Inquiry page), which in part reports redemption payments made in the current fiscal year. Taxpayers can then navigate to the WebTax Tax Payment History page, which in part reports redemption payments made in the last 2 calendar years with a breakdown of the tax amount, penalties, and fees. If defaulted taxes were paid during July through December 2013, the payments were properly listed on the WebTax Property Listing page. However, payments made during this 6-month period were not carried to the WebTax Tax Payment History page and listed under "Tax Payments for Calendar 2013". Accurately reporting all taxes paid on the WebTax Tax Payment History page will enable taxpayers to obtain complete property tax payment information without having to contact the Tax Collector's Office with questions.

**Recommendation.** Tax Collector management should work with the County of Ventura's Information Technology Services Department ("ITSD") to ensure the WebTax Tax Payment History page displays all paid redemptions for the years reported. Also, the Tax Collector should implement periodic reviews to ensure the WebTax Tax Payment History page displays all paid redemptions in each calendar year.

**Management Action.** Tax Collector management stated: "We concur with the audit finding and have resolved the issue. We will continue to work with ITSD to ensure accuracy of the WebTax payment information."

#### **AUDITOR'S EVALUATION OF MANAGEMENT ACTION**

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Except for Finding 1(C), we believe that management actions taken or planned were responsive to the audit findings. Corrective action is planned to be completed by June 30, 2015.