



## COUNTY OF LAKE

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### To Whom It May Concern,

### Subject: Teeter as it Relates to Tax Defaulted Land Sales Sold at a Deficit

In an effort to explain recent property tax events and in the spirit of transparency, we believe it is prudent to provide a description of the Teeter Plan process to provide a clearer understanding of the process the Auditor-Controller Office follows for the related apportionment of property tax revenues.

Typically, a property secures the payment of direct charges because the property may be sold by the county tax collector after five years if taxes (including direct charges) are unpaid (GOV §53930, et seq., RTC §2802). Generally, the *tax sale* extinguishes the secured tax lien on billed amounts of direct charges, even if the tax sale is for a deficit amount (RTC §3712), with certain exceptions such as Mello-Roos, special taxes, 1915 Bonds, and direct charges billed on the unsecured current roll (RTC §2188.1).

### Introduction

In 1993, the Board of Supervisors adopted the alternative method of property tax distribution (the Teeter Plan) pursuant to Revenue and Taxation (R&T) Code Section 4701 et seq. (the Code). Resolution 93-234 approved the Teeter Plan and Resolution 96-187 authorized the one-time loan to establish the plan. The intent then, as now, is to maintain the Teeter Plan in perpetuity, subject to review and reconsideration, if necessary. Although the Code allows counties to discontinue their Teeter Plan, most counties that have adopted Teeter have not reverted to the traditional method of distribution due to the advantages that it provides.

### Tax Defaulted Land Sales with a Deficit

When a property is sold at the tax auction for less than the redemption amount (total tax bill = base+penalties+interest) it creates a deficit. Lake County has created an interesting situation for itself, in terms of Tax Defaulted Land Sales sold at a deficit. Although 50 of the 58 counties have a low value ordinance in place which removes bills that are too low in value to justify any collection effort, Lake County does not. Many of the properties that sell at a deficit begin as low value properties. A high percentage of low value bills go delinquent which require collection efforts whose costs far outweigh any financial benefit. The potential revenue due to the county brought in by low value property bill payments is less than the cost to post the tax payment. The low value properties are often less desirable, and often sit unpaid, accumulating penalties and interest pursuant to R&T 2922 and R&T 4103.

In 2015, the Board of Supervisors (BOS) adopted the Paper Subdivision Management Plan requiring the Tax Collector to omit the subdivision parcels from the auction. This resulted in years of accumulation of penalties and interest (in some cases, exceeding the value of the property) on all the parcels covered under that plan.

The Auditor Controller presented on Teeter during the 2/25/2020 BOS meeting and warned that the penalty and interest some jurisdictions saw as potential revenue was likely not. Also discussed at that board meeting was the potential to have to recover amounts not collected during the auction.

The City of Clearlake initiated litigation against the county on August 18, 2020 (Case No: CV-421149) for not selling certain properties at the tax auction.

On December 15, 2020, a letter from the State Controller was sent to the Lake County Treasurer-Tax Collector in response to a letter sent to them by Clearlake Dated December 4, 2019. Citing authority G.C. 12423, they investigated. Subsequently, the BOS approved a settlement agreement which created direction for the Lake County Tax Collector to sell 1,000 properties per year, if not all at once. As a result, Lake County has experienced an unprecedented influx of deficit specific sales.

### **Teeter Plan Overview**

The Teeter Plan provides for a tax distribution procedure by which secured (including supplemental secured) property taxes are distributed to the different taxing agencies (Revenue Districts) on the basis of the tax levy rather than on the basis of actual tax collections. The County then receives all future delinquent tax payments, penalties and interest associated with those taxing agencies for that year's tax levy.

To implement a Teeter Plan, the Board of Supervisors of a county generally must elect to do so by July 15 of the fiscal year in which the plan is to apply. A county may elect to have the Teeter Plan procedures also apply to assessments on the secured roll in addition to the general levy. Once adopted, a county's Teeter Plan will remain in effect in perpetuity unless the Board orders its discontinuance, or unless prior to the commencement of a fiscal year a petition for discontinuance is received and joined in by resolutions of the governing bodies of not less than two thirds of the Revenue Districts in the county. An electing county may, however, determine to discontinue the Teeter Plan with respect to any levying agency in the county if certain conditions are met.

### **Participation in the Teeter Plan**

Pursuant to state law, school districts are mandatory participants upon the adoption of the Teeter Plan by a county. Other taxing entities may join upon the recommendation of the County Executive Office and Board approval. Resolution 96-187 is where the County opted to exclude assessments and direct charges from the Teeter Plan Process which were perceived to have a greater risk of tax loss to the County than the general tax levy.

## **Tax Losses Reserve Fund (TLRF)**

The Code requires counties to maintain a reserve to cover losses of tax-defaulted properties at tax sales. The TLRF is to be funded in one of two amounts: 1) either 1% of the charge on the tax roll that is subject to the Teeter Plan, or 2) 25% of the prior year's delinquent amounts (subject to Teeter). Penalties and interest on delinquent accounts are to be deposited in the Tax Loss Reserve Fund.

## **Distribution Schedule**

R&T Code Section 4701 et seq. allows for the distribution of tax levies enrolled on the secured (including supplemental secured) property tax roll for those public entities participating in the Teeter Plan. It is therefore the intent of the County to cause the distribution of those levies enrolled on the secured (including supplemental secured) property tax roll, excluding assessments and direct charges pursuant to R&T Section 4702.5, for those public entities participating in the Teeter Plan process as follows:

I. 55% distribution in December

II. 40% distribution in April

III. Each June, the difference in bill corrections made throughout the year are calculated and a reconciliation (true-up) is performed.

## **Characteristics of Participating in the Teeter Plan**

The Teeter Plan enables the County to use short-term borrowing to obtain the cash necessary to cover delinquent property taxes owed to the participating local government agencies at the end of the fiscal year, which allows the participating local government agencies to receive their full share of the property taxes owed to them out of the cash borrowed by the County. In exchange, participating local government agencies give up their share of the penalties and interest due on delinquent property taxes. The 1% base tax is covered by the Teeter Plan whereas direct assessments are not.

The Teeter Plan enables all participating local agencies to rely on a stable property tax base, regardless of fluctuations caused by delinquencies.

The Teeter Plan eliminates fluctuations in property tax revenues due to delinquencies and helps assure that essential local services continue during economic downturns.

Changes to the tax levy by correction, cancellation or refund for property taxes already apportioned will be adjusted on a pro-rata basis and recovered from each fund to which apportionment previously has been made pursuant to R&T Code section 4707.

## **Apportionment of Property Tax Revenues (excluding Utility Roll and Unitary Property)**

Once the taxes are calculated in total, the apportionment of the county-wide property taxes is done via the AB8 factor since all related changes/adjustments (i.e. annexations, increment allocations, and ERAF shift) were performed at the Tax Rate Area level. When details from the final sale report are provided by the Treasurer-Tax Collector to the Auditor, the deficit calculations can begin.

### **Conclusion**

I hope this letter provides an understanding of how the Teeter Plan process works, in conjunction with Tax Defaulted Land Sales sold at a deficit, and how that can result in repayment. Much had to happen for our county to arrive at this point, so I expect some effort will be required to fix it. My goal is to ensure that once we get through the cleanup, that this problem is not recreated in future years.

Additionally, the California State Controller's Office — Audits Division audits our apportionment process every 5 years. The last audit scope was from July 2018 through June 2024.

Please let me know if you have any questions or comments on any of the topics above or if you have specific questions on the negative appointment letter.

Attached is your jurisdictions repayment schedule, if applicable.

Respectfully,



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