

## Tax Sale 第一周作业：第四小组

作业上交截止时间：1/16/2021 西部时间晚上 11:59PM

1. 给自己的小组起一个响亮的名称。416 梦之队

2. 每个小组成员选 1-2 个想要重点研究和投资的市场。

我们投票选了加州和德州。

3. 小组讨论，最后决定 1-2 个想要在后期进行重点研究和投资的市场

加州和德州

4. 对于所选择的每一个市场，回答以下至少 14 个问题：

1. 小组名称？

Answer:

416 梦之队

2. 小组成员都有谁？组长是谁？小组成员是如何分工完成作业的？FRANK 回答

Answer:

小组成员:

Michelle 想想，红顶商人，小雨，张琪（SARAH），高伟，我在美国三十年，KELLY, TONY 王东，尔湾 HELEN, CECE, 呷裴佰 Pei, ELENA, 杨秀清，Jean 静美国地产，J 森, FRANK ZHANG

组长：FRANK ZHANG

分工：凡是参加小组会议的每人负责 2-3 个问题。

3, 该市场销售的是税留置权 (Tax Liens) 还是税地契 (Tax Deeds), Redemption Deeds?

Kelly

Answer:

加州是 Tax Deed state, 也是 Redemption deed state.

德州是混合州, 既有 Tax lien, 也有 Tax deed. Auction 是拍卖 Tax deed.

4, When are the taxes assessed and when do they become delinquent? 房地产的税务评估何时进行的? 税款拖欠起始日期? KELLY

Answer:

加州: 每年分两次付, 第一次 11 月 1 号 Tax due, 在 12 月 10 号 Becomes delinquent; 第二次 2 月 1 号 Due, 到 4 月 10 号 Becomes delinquent. 之后付的话就有 10% 的 Penalty, 到六月底不付的话成为 Default, 之后五年内可以 Redeem with penalty and interest (每月 1.5% )。五年后 property 就被拍卖。

5. 税务留置权售出方式是什么, 是线上拍卖, 还是现场拍卖? MICHELLE

Answer:

德州: 线上拍卖和现场拍卖两种形式

加州: 线上拍卖、现场拍卖和柜台销售

6. How does the bidding work (do you Bid down the interest rate, pay a premium, or bid down ownership interest)? 拍卖方式 (是否由高向低拍利率, 支付溢价, 或由高向低拍房地产所有权利息)?

德州: 溢价投标的方式 (Premium Bidding) 价高者得;

加州: 与德州方式相同

7. are the sale procedures and does the local government have a brochure or printed materials that outline the process? 税务销售流程? 政府是否提供小册子或印刷材料概述过程? AMY

ZHAO

Answer:

**CALIFORNIA:**

1、税务销售流程？

加州是一个税务地契州。每年 7 月 1 日，所有对房地产征收的税收、罚款、估价和其他费用被正式宣布为违约。然后，该房产被视为"欠税"房产。房产的赎回期为 5 年，可在赎回期内任何事件付清欠税。当业主向县支付所有税费、罚金和费用时，即赎回了欠税的房产。财产被宣布违约五年后，收税员在法律上有权取消抵押品的赎回权。止赎(Foreclosure)由收税员根据州止赎法进行操作。止赎通知需要通过挂号邮件(Certified Mail)发送给产权证明上列出的所有人。已取消抵押品赎回权的财产须公开拍卖。

2、政府是否提供小册子或印刷材料概述过程？

投标人可以在线查看或下载税务地契的销售清单。通过在一个网站上提供大部分信息从而简化了流程。

**TEXAS:**

1、税务销售流程？

税收销售在每月的第一个星期二在县法院进行。销售是利用溢价投标系统进行口头竞价拍卖。开标金额包括 3 至 5 年的应缴税款、罚款和上一个完整税务年度所欠的费用。地契拍卖就是不断加价，直到出现一个最高价。地契被授予出价最高者。

2、政府是否提供小册子或印刷材料概述过程？

各县还在拍卖前在当地报纸上发布拍卖信息和拍卖房产列表。

8. What is the interest rates or penalties to be earned?应赚取的利率或罚款是多少？ **AMY**

**ZHAO**

Answer:

**CALIFORNIA:**

应赚取的利率或罚款是多少？

地契州溢价销售。没有利率和罚款没有赎回期

**TEXAS:**

应赚取的利率或罚款是多少？

德克萨斯州是最好的税务地契投资州之一。赎回契约要支付的每年 25% 的固定罚款率是全国最高的。在赎回期内，该地契持有人可以拥有和占有该财产。2 年的赎回期仅适用于宅基地物业。所有其他房产的赎回期为 6 个月，如果赎回，他们仍要支付 25% 的罚款率。第二年赎回的任何财产的总回报是该财产购买价格的 50%

9. If redemption occurs mid-month do you get the entire month's interest?如果月中赎回，你会得到整月的利息吗？ **HELEN**

Answer:

California

California does not create tax lien certificates.

Texas

If the delinquent taxpayer wishes to redeem the property, they must pay a full interest penalty calculated from the final price paid by the investor at the auction. For example, if the delinquent taxpayer wishes to redeem the property 3 weeks after the tax sale, they must pay the full 25% return in addition to the costs and fees.

10. Are physical certificates printed and what is the timing of their receipt? 是否有打印的实物证书? 多久提供收据? **HELEN**

Answer:

California

Successful bidders must pay by cashier's check, wire transfer or electronic funds transfer within three (3) business days after the sale closes. Once you pay for your winning bid, the county has to do the paperwork to transfer the deed to your name. Each county has different rules and different lengths of time for this. "The winning bidder may take possession of a property after the Tax Deed to the Purchaser has been recorded, which is between 60 and 70 calendar days after the date of the tax sale".

Texas

The highest bidder at this auction will be required to pay the full dollar amount bid in cash, or cash equivalent instrument, within a very short amount of time, usually one day or less. Upon payment, the purchaser receives a receipt for the payment, and is entitled to immediate use and possession of the property.

The officer making the sale shall prepare a deed to the purchaser of real property at the sale. As soon as practicable after a deed is executed by the officer, the officer shall either file the deed for recording with the county clerk or deliver the executed deed to the taxing unit that requested the order of sale, which shall file the deed for recording with the county clerk. The county clerk shall file and record each deed and after recording shall return the deed to the grantee.

11. What is the redemption period and can property owners be contacted during the redemption period? 赎回期限多久? 赎回期间可以联系原业主吗? **PETER**

Answer: **CA:**Property on which taxes remain unpaid at 12:01 a.m. on July 1 becomes tax-defaulted land. Property that is tax-defaulted after five years (or three years in the case of property also subject to a nuisance abatement lien) becomes subject to the county tax

collector's power to sell that property in order to satisfy the defaulted taxes. The county tax collector must attempt to sell the property within four years after it becomes subject to sale.

TX: The Redemption Period can be 180 days or 2 years.

12. What are the redemption rights of the property owner? 产权人的赎回权有哪些? **PETER**

Answer:

**CA:** The owner of a tax-defaulted property has the right to redeem the property up until 5:00 p.m. or the close of business on the last business day prior to the tax sale. There is a one-year statute of limitations to bring an action to overturn a tax sale. Title companies will generally not issue title insurance until after the statute of limitations has expired.

**TX:** The owner of real property sold at a tax sale may redeem the property...by paying the purchaser the amount the purchaser bid on the property, the amount of the deed recording fee, the amount paid by the purchaser as taxes, penalties, interests and costs on the property, the amount paid to preserve, maintain and safekeep the property and the penalty return amount

13. What is the life of lien? When does it expire? 留置权的有效期是多久? 什么时候到期?

**SARAH**

Answer:

Texas:

Tax liens in Texas expire after ten years

California:

Is effective for at least 10 years (may be extended)

14. 止赎程序 (Foreclosure) 如何? **SARAH**

Answer:

California

- The California foreclosure process can last up to 200 days or longer. Day 1 is when a payment is missed; your loan is officially in default around day 90. Day 120, When your home loan is officially in default, the bank must file a Notice of Default with the court.

After 180 days, you'll receive a notice of trustee sale. About 20 days later, your bank can then set the auction.

Day 200, After you've received a Notice of Trustee Sale, the bank can set a date for the auction.

- Many foreclosures go beyond 200 days. Most in California are nonjudicial, meaning going through the court system is unnecessary.
- You can stop foreclosure in California either by making a big enough payment toward your mortgage, or filing for bankruptcy. Bankruptcy can help debtors keep their homes, either through a liquidation Chapter 7 bankruptcy or repayment plan under Chapter 13. The automatic stay is one of the most beneficial aspects in bankruptcy in that it keeps your house safe from the bank while you go through bankruptcy. Foreclosure must stop.

Texas

#### 1. Notice of Default and Intent to Accelerate

Texas law requires the servicer to send the borrower a notice of default and intent to accelerate by certified mail that provides at least 20 days to cure the default before a notice of sale can be given.

#### 2. Notice of Sale

After the cure period has expired and at least 21 days before the foreclosure sale, the servicer then sends a notice of sale via certified mail to each borrower obligated to pay the debt.

#### 3. The Foreclosure Sale

At the sale, the lender usually makes a credit bid. The lender can bid up to the total amount owed, including fees and costs, or it may bid less. In some states, including Texas, when the lender is the high bidder at the sale but bids less than the total debt, it can get a deficiency judgment (see below) against the borrower. If the lender is the highest bidder, the property becomes what's called "Real Estate Owned" (REO).

But if a bidder, say a third party, is the highest bidder and offers more than you owe, and the sale results in excess proceeds—that is, money over and above what's needed to pay off all the liens on your property—you're entitled to that surplus money.

### 15. Is a quiet title suit required? 是否要求产权清晰诉讼? **FRANK**

Answer:

加州：如果有人要占有或部分占有房子（CLOUD），加州是需要 QUITE TITLE SUIT 的。一般时间是 8-10 个星期完成诉讼。

德州：如果出现上面的情况，德州也需要屋主进行产权清晰诉讼。下面三种情况是进行诉讼的常见原因：

- *Adverse possession*: The law allows trespassers to possess or claim property (especially land) that they use as their personal property if certain requirements are met. This principle is called adverse possession. You can file a quiet title action to prevent squatters from claiming your property.
- *Boundary disputes*: There is likely to be a boundary dispute if the deeds of adjoining property owners do not clearly describe their properties. In such a situation, a court is likely to rule in favor of the property owner whose deed was recorded first.
- *Surveys that conflict*: It is possible for neighbors to have surveys that conflict with one another. Surveyors can solve this by reviewing the chain of title. A quiet title action can be filed by either party for a clear title.

16. How does the holder of the tax lien take ownership if redemption does not occur?如果未有赎回，税留置权持有人如何取得物业所有权？ **FRANK**

Answer:

加州：是 TAX DEED 州，没有赎回期，所以不存在这个问题。

德州：如果 REDEMPTION 没有发生，则房子归地契持有人所有，不再拍卖。

17. What is the expected period before clear title can be obtained?多久可以获得清晰产权？ **YUAN**

Answer:

一般讲要等 2 年。

18. What other items or situations impact the priority status of the lien?还有哪些事项或情形可以影响留置权的优先级？ **YUAN**

Answer:

IRS lien 会影响留置权的优先级。

19. Are there special noticing requirements in existence that could impact the status or priority of the tax lien?是否存在可能影响税收留置权的地位或优先级的特殊通知要求？ **Frank**

Answer:

Depending on state and federal laws, certain liens, like those placed on a property for the collection of property taxes, special assessment taxes, homeowners' association (HOA) or

condominium association (COA) assessments, and contractor fees, might have priority over first mortgages and other earlier-recorded liens.

Generally speaking, unless the IRS properly files a notice of its federal tax lien first, a purchaser will have priority over the federal tax lien. Similarly, unless the IRS files a NFTL first, the holder of a security interest, mechanic's lienor, and judgment lien creditor will have priority over the federal tax lien.

The Internal Revenue Service or state tax collector can also file liens against your property if you have unpaid income taxes. These liens can assume higher priority than lender or lawsuit judgment liens, but their ability to enforce their rights is determined by local or state laws and regulations. However, they can attain higher priority than their recording date indicates depending on state regulations. The IRS has "redemption rights," regardless of their position per their recording dates. The IRS has 120 days to redeem a foreclosed property. If you have sufficient equity to pay off your mortgage(s), the IRS may redeem the property to generate cash to reduce the balance of overdue taxes.

总体来说，如果 IRS 提交了税收债务通知，就会比 TAX LIEN 优先。另外，法庭判决通知也会改变 TAX LIEN 的优先级别。

State and local real estate tax liens take priority over all other liens on your property. How, when and by whom they are paid often depends on the foreclosure and who is foreclosing. For example, the state or municipality due unpaid taxes can foreclose. Your first mortgage lender can also foreclose if your mortgage loan is delinquent. However, since your mortgage balance is usually much higher than your delinquent home tax bill, many lenders will pay off unpaid property taxes to keep their first lien priority position.

有时，第一优先债权人为了不失去房子优先权，会自己付清 TAX LIEN。这也会影响结果。

20, Are there any put-back provisions that would allow the purchaser to put back the lien to the municipality (bankruptcy, incorrect advertisement, etc.)? 是否有任何退回条款允许购买者将留置权退还给市政当局（破产，不正确的广告等）？ Frank

Answer:

投资者要对竞拍负责，要负责调查研究。一旦竞拍成功，必需按时付费完成交易。即使是因为不正确的广告或者竞拍者自己出错，也不能改变结果。如果最后的竞拍者不按时付费，存款会被没收，有可能会被取消以后竞拍的资格，重者可能被诉诸法律。所以，提前的仔细调查非常重要。

21, Are subsequent taxes available for purchase? If yes, what rate? 可以购买后续税吗？ 如果是，利率是多少？ Frank



Answer:

SUBSEQUENT TAXES 好像很少县有。我只查到了佐治亚州的 FULTON 县有这样的规定:

“Until the right of redemption has been foreclosed or the title has ripened by prescription, a tax deed has the same force and effect as a lien. Since defeasible title has been conveyed to the tax deed purchaser, liability for subsequent taxes would be the same as any other superior lien holder. If there is a subsequent tax sale of the same parcel, the tax deed purchaser will be listed as the owner along with the defendant in Fi.fa. (record owner) for purposes of levy and sale, despite not having foreclosed the right of redemption or having the tax deed ripen by prescription. Therefore, the tax deed purchaser may wish to consider the best possible avenue to protect their initial tax sale investment.”

22. 为了完成该份作业，你们参考了哪些网站，比如 County 网站，Tax Sale 拍卖网站，这些网站对你们有什么帮助。 Frank

Answer: Various websites. Some is official and some is not certified.

- 1) <https://homeguides.sfgate.com/property-taxes-paid-first-foreclosures-47330.html>
- 2) CA San Diego County Tax Collector website.
- 3) Texas Harris County Tax Collector website.

这些网站提供了很多经过专家分析后的资料，比较直观易懂，比起直接阅读 TAX CODE 等法律文件要容易多了。每个县的法律不同，所以要仔细阅读各个县的法律。有必要的話可以直接电话咨询。