



# Escrow and Tax Refunds

Presented by California Escrow Association (CEA)

# DISCLAIMER

This information is not a substitute for legal advice, is for your reference only and is not intended to represent the only approach to any particular issue. This information should not be construed as legal, financial or business advice and users should consult legal counsel and subject-matter experts to be sure that the policies adopted and implemented meet the requirements unique to your company.

# Agenda:

1. What is an escrow?
2. What is Title Insurance?
3. What is a Title Company Sub-Escrow?
4. What is a Personal Property Escrow?
5. What is an Escrow Impound Account?
6. Who pays Real and Unsecured property taxes?
7. Who is entitled to the Refund?
8. Let's dive a little deeper:
  - a) How does title/escrow handle refunds?
  - b) How long are escrow files available for research?
  - c) What is the process for title/escrow to notify the rightful owner of the refund?
  - d) When does title/escrow escheat to the State, and who is listed as the person funds are being escheated for?

Please mute your mobile phones.

A survey will be sent out to all attendees, please provide your feedback



**What is an escrow?**

# What is an escrow?

## Escrow:

**a depository of funds and documents with a neutral third party for delivery upon completion of the terms and performance of certain condition specified by written instructions of the principals.**

**The most common use for escrow is for either a**

- **Real Property:**
  - **refinance or sale transactions**
- **Personal Property:**
  - **Mobile Home transactions**
  - **Bulk Sale (Business) transactions**

# Who are the parties to an escrow?

- **PRINCIPALS:** Seller and Buyer/Borrower
- **SETTLEMENT AGENT:** Escrow Officer – strictly follows instructions from the parties as a neutral third party
- **ADDITIONAL PARTY:** Lender

# Real Property Escrow

Escrow Officer processes the escrow to accomplish the agreements of the parties to the escrow and requirements of Buyer/Borrower's Lender including payments for:

- Current Real Property taxes
- Supplemental Real property taxes
- Delinquent Real Property Taxes

# Personal Property Escrow

Escrow Holder processes the escrow to accomplish the agreements of the parties to the escrow and requirements of Additional Parties including payments for:

- Unsecured Taxes
- Mobile Home Tax Clearance





# What is Title Insurance?

A policy of Title Insurance protects real property owners and lenders (the “insured”) against any loss or damage due to liens, encumbrances or defects in the title to the property.

There are various Title Insurance policy forms – each is subject to specific terms, conditions and exclusions.





**What is a Title Company  
Sub-Escrow?**

# What is a Title Company Sub-Escrow?

A service provided by the title company for real property escrows that includes:

- Receives loan proceeds from lender
- Receives shortage funds from parties, if required;
- Handles payoff of existing liens and encumbrances including the payment of real property taxes



**What is a Personal Property Escrow?**

# Examples of Personal Property Escrows are:

- Bulk Sale (sale of a business)
- Manufactured Homes



# What is an Escrow Impound Account?



# What is an (Lender) Escrow Impound Account?

- An impound account created and managed by the lender for recurring property related expenses, usually property taxes and hazard insurance
- Set up concurrent with the mortgage loan for benefit of the lender and consumer
- Lender/Service collector collects 1/12<sup>th</sup> of the property taxes and insurance with the monthly mortgage payment
- When bills become due, the lender will pay from the impound account

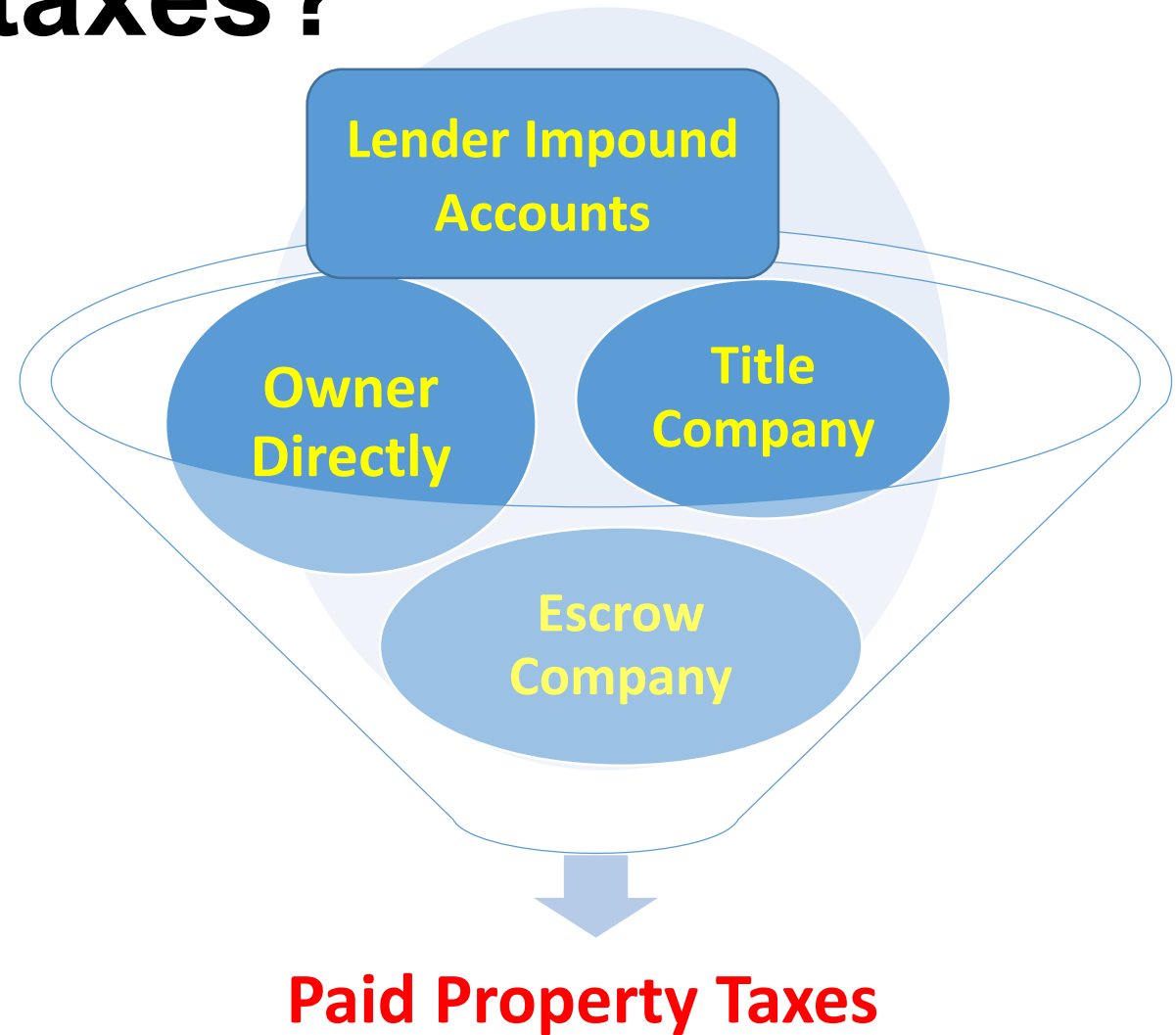




# Who Pays Real and Unsecured Property Taxes?

# Who pays property taxes?

- Record Owner directly for individual property;
- Lender Impound Accounts are paid electronically for multiple properties under contract;
- Title Company for individual property under Sub-Escrow;
- Escrow Company for the Seller or Buyer/Borrower property.



# Property Owner Pays the Property Taxes

- Every year the county mails the current year real property tax bills to the record owner at the address on record around October 1<sup>st</sup> and unsecured property tax bills are mailed out by June 30<sup>th</sup>
- The Property Owner will pay directly to the county unless:
  - They do not have sufficient funds to make the payment;
  - They are making periodic payments to their lender under an impound account arrangement;
  - They are involved in a refinance or sale escrow transaction

# Escrow Holder or the Title Company Sub-Escrow Pays the Property Taxes if so directed by the parties (seller, buyer or lender)

Typically, all payment for the property taxes including all delinquencies, current, supplemental, unsecured or estimated property taxes due and owing will be remitted to the county at closing.

- The Title Company employs Tax Reporting Agencies to review the county tax records and report to Escrow Holder the current status of real property taxes.
- The Tax check(s) remitted will include a parcel number(s) with the goal to have taxes paid before any further delinquencies are assessed.
- Escrow Holder may remit payment directly to the county tax collector if there is **NO** Title Company Sub-Escrow required for the escrow closing.

# Lender Impound Account Pays Real Property Taxes

- Prior to the delinquency date of each installment, the Lender submits a wire for payment of all their impounded loans with appropriate APN reference numbers
  - Lender will deduct from the Property Owner's impound account the required amount to pay the **current property taxes**.
  - Lender may advance funds for the Property Owner and add the advance payment to the Property Owner's impound account to make sure the property taxes are paid current.

# Problem Areas with Impound accounts

- Payoff demand from existing lender *may* include reference to their payment or future payment of the real property taxes.
- The county records may not reflect the receipt of payment of taxes
- Escrow Holder or the Title Company Sub-Escrow may need to hold the tax amount including penalty until the tax rolls reflect taxes paid.

**Who is entitled to  
the Refund?**



# Who is entitled to the Refund?

- If the property taxes being paid by either the **Escrow Officer** or the **Title Company Sub-Escrow**, **only the Escrow Holder really knows who is entitled to the overpayment of funds.**
  - The county will return the overpayment to the Title Company Sub-Escrow and they will then forward the funds to the Escrow Holder
  - The county will return the overpayment to the Escrow Holder
- Upon receipt of the refund, the Escrow Officer will examine the parties' escrow instructions/agreements and determine which party is entitled to the funds, especially if Supplemental Property Taxes are involved.



# Processing a Refund

Upon Escrow Officer's receipt of the refund check from either the county or the Title Company Sub-Escrow, the Escrow Officer will:

- Use the information provided on the check, to identify which escrow file the refund applies to.
- Escrow Officer will review the escrow file, escrow instructions and the closing statement(s) to determine which party (or parties) is entitled to the refund:
  - Escrow Holder and Title Company Sub-Escrow files, by law, are required to be held and able to actively recall for a period of 5 years from date of last activity.
  - U.S. Postal Service Forwarding addresses frequently are expired when the refund is received late by Escrow Holder.
    - The initial forwarding periods are restricted to 6 months, but can be extended up to 1 year if the principal so requests in writing directly to the U.S. Postal Service



- **County issued refund checks for either overpayment of the real property taxes or after application of the unsecured or estimated taxes on a Bulk Sale and Mobil Home transaction must have Escrow or Title reference number on the check.**
- **Without sufficient reference information, Title or Escrow is unable to process the refund check.**

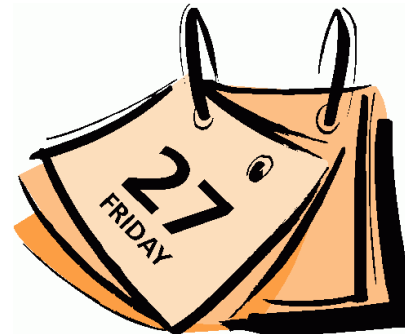


**How long are closed files available to research refunds?**

- California law requires the maintaining of the file for a period of 5 years from close of escrow.



- Close of escrow is the date of recordation of the documents.

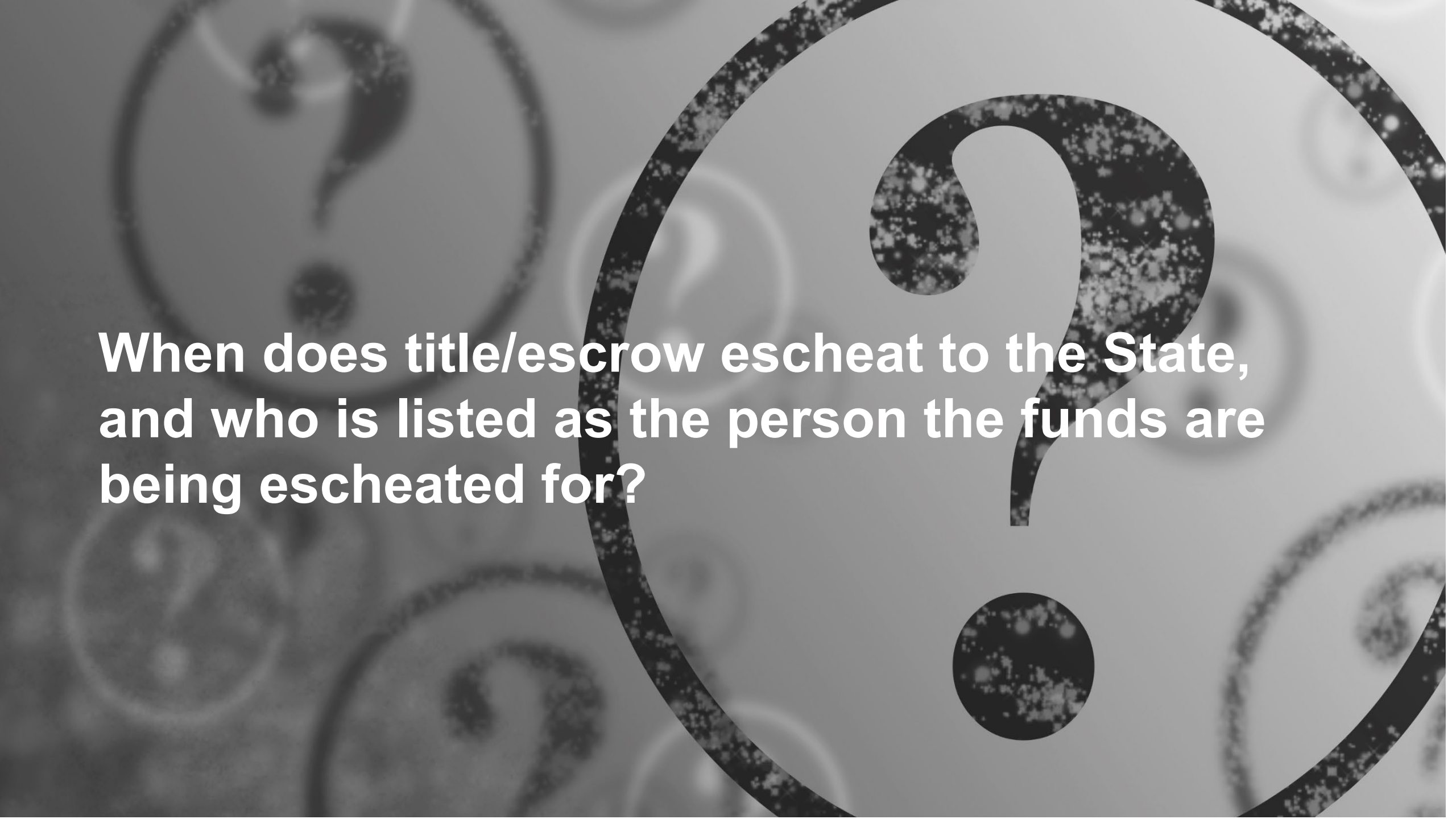


- Disbursement of funds occurs typically with 48 hours of close of escrow.



**What is the process for title/escrow to notify the rightful owner of the refund?**

- Title Company Sub-Escrow will research based on information on the refund check (APN/name(s) etc.)
- If unable to locate file information based on information on the check, Sub-Escrow will contact the Tax Collector's office for additional information
- If no response, Sub-Escrow may return the check to the originator (which could be Tax Collector's office)



**When does title/escrow escheat to the State,  
and who is listed as the person the funds are  
being escheated for?**

If a check is issued and the payee fails to negotiate a check, the funds will be escheated to the state per state required timelines. The funds are designated under the name of the payee on the failed check.





# Thank you!

*We appreciate your participation and look forward to any questions you may have and working in unison to provide the consumer with a better experience.*

# QUESTIONS AND COMMENTS

