

**Tax Deed to County, Treasurer to Serve Notice Applying For  
Deed and Make an Affidavit of Service of the Same.**

Under Sections 3895 and 3896, of the Political Code of Montana, the same notice must be given where the county is the purchaser and applies for a deed as where an individual is the purchaser and applies for a deed.

Section 3882 provides that the duplicate certificate of sale shall be delivered to the county treasurer and filed in his office, and he is thereby made the proper county officer to give notice of time for applying for a deed and to make affidavit showing that such notice was given.

January 25, 1905.

Harry L. Wilson, Esq., County Attorney, Billings, Montana.

Dear Sir:—Your letter of the 23rd instant, regarding the notice to be given by the purchaser prior to applying for a deed for property sold for delinquent taxes when the county is the purchaser; and also as to what officer of the county should give the notice and make the affidavit of giving the same, to hand.

Sections 3895 and 3896, of the Political Code of Montana, are mandatory, and under Section 3895 the same notice must be served, and in the same manner and form, when the county is the purchaser and applies for a deed as when an individual is the purchaser and applies for a deed.

The law is not quite so clear as to what officer of the county should serve the notice and make the affidavit of service provided for in Section 3896. Section 3885 provides for making duplicate certificates of sale. Section 3886 provides that one certificate must be filed in the office of the county clerk and the other delivered to the purchaser. But Section 3882 provides that when the property is struck off to the county the duplicate certificate of sale must be delivered to the county treasurer and filed in his office.

Thus, when the county is the purchaser the treasurer holds the certificate upon which the application for deed should be made. Therefore, in my opinion, the county treasurer should serve the notice of the time when the county will apply for a deed and also make and file in his office the affidavit showing that such notice had been given.

Yours respectfully,

ALBERT J. GALEN,

Attorney General.