

**Sheriff — Fees — Execution Sales — Revenue Stamps—
Sheriff's Deed—Federal Land Bank—Taxation—Exemption.**

The Sheriff is entitled to collect for the use of the county \$1.00 for advertising property for sale on execution, which includes both posting and publication of notices.

Revenue stamps are required on Sheriff's deeds, the same as those executed by a private individual.

The Federal Land Bank of Spokane held to be an instrumentality of the Federal Government and its property exempt from taxation.

B. R. McCabe, Esq.,
County Attorney,
Chester, Montana.

My dear Mr. McCabe:

You have submitted to this office for my opinion the following question:

"In connection with sales of real estate under execution or order of sale is the publication by the Sheriff considered one service and the posting of notices another service? Is the county entitled to collect two dollars fees on each Sheriff's sale and what are they classed at?"

Subdivision 2 of Section 9432, Revised Codes of 1921, provides that before the sale of real property on execution notice of the sale must be given by the Sheriff by posting notices in three public places of the township or city where the property is situated, and also where the property is to be sold, and publishing a copy thereof.

Section 4916, which prescribes the fees to be paid the Sheriff for the use of the county, provides that the fee for advertising any property for sale on execution or under any judgment or order of sale shall be, exclusive of the cost of publication, one dollar.

The fee is for advertising the property, and the advertising consists of the two acts combined, that of posting the notices and publishing a copy, so that the two together constitute the advertising, and for this advertising the fee is one dollar.

It is, therefore, my opinion that the Sheriff is entitled to collect, for the use of the county, for advertising the property for sale on an execution or under order of sale, one dollar, and that such advertising includes both the posting and publication of notice.

You also ask me to advise you whether revenue stamps to the amount of fifty cents for each five hundred dollars, or part thereof, must be attached to each Sheriff's deed when executed, and whether the Federal Land Bank of Spokane is exempt from this stamp tax.

Stamps are required to be attached to deeds executed by a Sheriff in exactly the same manner as though executed by a private individual. The deed is not made for the benefit of the state or county,

or any political subdivision of the state, but for the sole benefit of a private individual or individuals, and both the decisions of the Internal Revenue Department and of the Federal Courts hold that stamps must be attached thereto. (See Home Title Ins. Co. v. Keith, 230 Fed. 905.)

The Federal Land Bank of Spokane is an instrumentality of the Federal Government and hence is exempt from taxation; therefore, it is not necessary to attach stamps to a Sheriff's deed conveying property to such bank.

Very truly yours,

WELLINGTON D. RANKIN,
Attorney General.