

Taxation—Redemption—Assignment—Certificate.

The county treasurer must accept redemption money, and if the person entitled thereto cannot furnish the assignment of the tax sale certificate he must furnish a bond before receiving the redemption money.

May 28, 1928.

Hugh N. Marron, Esq.,
County Attorney,
Wolf Point, Montana.

My dear Mr. Marron:

You have submitted to me the following statement of facts and request for opinion:

“ ‘A’ bought a number of tax certificates from Roosevelt county, comprising tax certificates for the last five years. ‘B’, a redemptioner, comes in and deposits the amount of money necessary to redeem from the party known as ‘A’. The county treasurer accepts the money, and writes ‘A’ accordingly, requesting that ‘A’ return the assignments which he secured from the county. ‘A’ replies that he has lost the assignments. No application was made for a tax deed. What can and must the county treasurer of Roosevelt county do under the circumstances?”

Under section 2202 R. C. M. 1921 it is made the duty of the county treasurer, upon receiving redemption money, to “credit the amount paid to the person named in the county treasurer’s certificate, and pay it on demand to the person or his assignees.” By section 2205 R. C. M. 1921 it is made the duty of the county clerk to mark the word “redeemed,” the date, and by whom redeemed, on the certificate and in the margin of the book where the entry of the certificate is made, upon presentation of the receipt of the county treasurer of the amount of the redemption money.

It is my opinion that so far as the duties of the county treasurer are concerned, under the circumstances recited by you, all he need do is to retain the money until demanded by the person named in the tax sale certificate, or his assignee. The county treasurer would not be justified in paying the redemption money to the holder of the tax sale certificate unless he produces the assignment of the tax sale certificate. If he is unable to produce the same, then I believe the county treasurer would not be justified in turning over the redemption money to him without a sufficient indemnity bond being furnished to indemnify the county and its treasurer against loss in the event that the assignment had been transferred or further assigned to someone else. This would not prevent the county treasurer, however, from issuing a certificate of redemption to “B” upon the payment of the money to him, the only effect of the loss of the assignment being that the county treasurer does not know to whom he can safely pay the redemption money under section 2202.

Very truly yours,

L. A. FOOT,
Attorney General.