

Deeds—Tax Deeds—Classification—Land Classification.

The failure of a board of county commissioners to provide for a classification of lands in its county does not invalidate a tax deed otherwise regular.

J. H. Forster, Esq.,
County Attorney,
Malta, Montana.

April 18, 1927.

My dear Mr. Forster:

You have requested my opinion relative to land classification in your county.

In an opinion of this office, which you will find in volume 8, Opinions of the Attorney General, page 149, you will find a statement of the views of this office regarding the applicability of section 5 of article XIII of the constitution of Montana to contracts of the sort mentioned.

The question as to the effect upon a tax deed of the failure of a county commissioner to make a classification of property, as required by section 2025 R. C. M. 1921, has never been passed upon by our supreme court.

On general principles, however, I can see no good reason why such an omission should affect the validity of a tax deed. Section 2002 of the code confers upon the assessor power to assess property, and section 2023 directs how he shall assess land.

It is true that section 2030 says that the assessor shall "assess all land for taxation in accordance with the classification as made by the board of county commissioners." However, it seems to me that the failure of the county commissioners to make the classification would not divest the assessor of his authority to assess lands within his county. Also, consideration should be given to the fact that no reduction or change in an assessment can be made, except on application to the county or state board of equalization, as provided by law.

In view of the above considerations, it is my opinion that the failure of the board of county commissioners to provide for a classifica-

tion of lands within its county would not invalidate tax deeds, regular in other respects.

Very truly yours,

L. A. FOOT,
Attorney General.