

**Assignments—Tax Sales Certificates—Special Improvement District—Assessments—Taxes—Tax Deeds.**

One purchasing tax sales certificate from county need not pay special improvement district assessments after the date of the certificate and up to the time of the issuance of tax deed.

W. P. Costello, Esq.,  
Attorney at Law,  
Great Falls, Montana.

October 15, 1929.

My dear Mr. Costello:

You have requested an opinion as to the following statement of facts:

“A city lot was struck off to the county in 1927 for non-payment of general taxes, and a tax certificate issued to the county, which certificate the county still holds. In 1928 the city treasurer certified to the county treasurer some \$200 in delinquent special improvement assessments against this lot.

“A prospective purchaser of the certificate under the authority of Chapter 46, Laws of 1923, has tendered to the county treasurer the amount of the tax certificate plus subsequent general taxes delinquent but not including the amount of the said special improvement assessments. The treasurer is hold-

ing the matter in abeyance pending opinion from your office as to whether he should accept the tender made and assign the certificate or whether he has the right to demand the payment of the special improvement assessments in addition to the amount of general taxes before assigning the certificate."

You mention that it would appear that this matter has been disposed of in *State ex rel. City of Great Falls vs. Jeffries*, 83 Mont. 118. It would appear that you are correct. The provisions of Chapter 46, Laws of 1923, are as follows:

"The county treasurer is hereby authorized to assign the interest of the county in any property purchased at a tax sale upon the payment of the amount for which the property was sold with interest thereon from the date of sale, at the rate of 12 per cent per annum and the amount of all taxes then due upon said property."

This chapter was amended by Chapter 31, Laws of 1929, and was not altered in the above particular. The question arises, as you state, whether or not the term "all taxes then due upon said property," include special improvement assessments. The language in *State vs. Jeffries*, supra, is as follows: (Referring to decisions of the Idaho court.)

"The court, however, reached its conclusion by declaring that the legislative intent evidenced by the use of the terms 'taxes', 'special taxes', and 'special assessments' interchangeably in statutes in *pari materia* with the statute under consideration, was that the term 'taxes' should include special assessments. No such legislative intent can be presumed in this state, as the terms mentioned have never been used interchangeably by our legislature; but, on the contrary, that body has always exhibited considerable discrimination in the use of the terms, and, consequently, this court has repeatedly declared that, 'though (special) assessments are laid under the taxing power, and are in a \* \* \* sense taxes, \* \* \* they are a peculiar class of taxes, and not within \* \* \* that term as it is usually employed in our constitution and statutes'. (*Billings Sugar Co. vs. Fish*, 40 Mont. 256, 20 Ann. Cas. 264, 26 L.R.A. (N.S.) 973, 106 Pac. 565; *In re Valley Center Drain Dist.*, 64 Mont. 545, 211 Pac. 218; *Thaanum vs. Bynum Irr. Dist.*, 72 Mont. 221, 232 Pac. 528.)"

You are advised that the county treasurer need not include in the amount required on the assignment of a tax certificate of sale the amount of special improvements levied after the date of the certificate of sale. The intention of the legislature to distinguish between the term "taxes and special assessments" is given further emphasis by the provisions of Chapter 100, Laws of 1929. In referring to the title conveyed by tax deed here again we notice the distinction as to local improvement assessments and which makes only local improvement assessments levied after the execution of the deed payable, obviously excluding spe-

cial improvement taxes levied between the date of the execution of the certificate of sale and the date of the deed.

Very truly yours,

L. A. FOOT,  
Attorney General.

### Counties—School Districts—Supplies.

A county is required to furnish school district with supplies under Chapter 34, Laws of 1923.

H. O. Vralsted, Esq.,  
County Attorney,  
Stanford, Montana.

October 16, 1929.

My dear Mr. Vralsted:

You have requested my opinion relative to whether it is the duty of the county to furnish supplies to the various school districts of the county and pay for them out of the general fund.

I presume you have in mind Section 4 of Chapter 34, of the Session Laws of 1923, which reads as follows:

“The county commissioners of each county shall furnish to each school district all necessary books and blanks for carrying out the provisions of this act.”

Chapter 34, of which the foregoing is the last section, requires a uniform system of accounts to be kept by each school district and the annual examination of the accounts by the county treasurer or county auditor, as the case may be.

Uniform books and blanks would greatly facilitate the work of instructing the various clerks how to keep the accounts as well as shorten and simplify the examination. Therefore, the county was required to procure them in order that they would be uniform, and probably as a further reason, that the county could procure in quantity cheaper than could each school district.

The language of the statute is plain and needs no construction. It requires the county to furnish these supplies to the school districts.

Very truly yours,

L. A. FOOT,  
Attorney General.