

Tax Deeds—Taxation—Assessment—Lands.

When a county acquires lands by tax deeds shortly after the first Monday in March, and the lands have not been actually assessed before the county acquires title, they should not be assessed. Where, however, they were assessed on the first Monday in March, or thereafter, but prior to the time the county acquired title, the lien of the taxes, because of such assessment, is merged in the title which the county acquires by the tax deed.

Walter R. Knaack, Esq.,
County Attorney,
Shelby, Montana.

February 17, 1930.

My dear Mr. Knaack:

You have requested an opinion on the following question:
“When the county has made application for tax deeds to

lands purchased by it at tax sales, which will result in the county obtaining title to the lands shortly after the first Monday in March of this year, should the land be assessed for the year 1930?"

The land is, of course, assessable until the county obtains tax deeds. It may be that there will be a redemption from the tax sales after the first Monday in March, but before the right of redemption expires, in which case the county would obtain no title and the 1930 taxes would constitute enforceable tax liens against the lands. If, however, the county obtains the tax deeds prior to the time the lands are actually assessed, though after the first Monday in March, no assessment should be made for the reason that after the county acquires title to these lands they are county property, and as such are exempt from taxation under the Constitution. If the county does not acquire tax deeds until after the assessment is made, but before the levy, no levy should be made as the making of a levy is a part of the taxation proceedings, and if levies were made against the lands in question then such action would in effect be subjecting the county's property to taxation.

Conceding that the statute creates a lien upon the property as of the first Monday in March, which antedates the deeds, and that the proceedings subsequent thereto are merely for the purpose of making definite the amount of the lien, nevertheless, this lien is merged in the title the county acquires by the tax deeds, and if this merger occurs prior to the date the assessment is actually made, or between the assessment and the date of the levy, there is no lien left to be made definite by any steps remaining to be taken in the taxation proceedings.

Very truly yours,
L. A. FOOT,
Attorney General.