

**Taxation — Tax Sales — Subsequent Assessments — Payment.**

Where land has been sold to the county for delinquent taxes the taxpayer may pay taxes levied for subsequent years without making redemption from the prior sale.

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

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My dear Mr. Forster:

You inquire if, after lands have been sold for delinquent taxes, but before tax deed is taken, the owner may pay subsequent delinquent taxes without redeeming from the tax sale the property which was sold thereat and purchased by the county and against which said subsequent delinquent taxes exist.

Section 2231, R. C. M. 1921, requires any property which has been purchased by the county at a delinquent tax sale to be assessed, but it must not be exposed for sale, and the sale thereof must be adjourned

until the time of redemption under the previous sale has expired, and section 2232 provides that if the property has not been redeemed from such previous sale that no sale can be had under the assessment unless directed by the board. It is apparent from these sections that it was proper to assess the property after it had been sold and purchased by the county.

Section 2233 provides that no redemption can be made except upon payment also of the amount of such subsequent assessment, costs, fees and interest. Section 2210 provides that a purchaser at a tax sale, or his assignee, may, subsequent thereto, pay the subsequent taxes and upon redemption the redemptioner must pay the subsequent taxes paid by the purchaser at such sale with interest.

While section 2233 appears to indicate that the subsequent assessments remain a charge against the land until redemption, and, therefore, could not be paid without a redemption of the land, nevertheless, section 2207 relating to the assignment of tax sale certificates clearly states that the assignment must be made to a person who shall pay the amount for which the land was bid in, with interest, and the amount of all subsequent delinquent taxes, penalties, costs and interest. This provision clearly indicates that the subsequent assessments are included in the assignment when they are delinquent at the time the assignment is made, thereby implying the right of the taxpayer to pay said subsequent assessments before they become delinquent or after they become delinquent. A tax which has been permitted to go delinquent is no longer a delinquent tax after it has been paid.

It is my opinion that the subsequent taxes which a taxpayer must pay upon redemption of the property are the delinquent taxes which remain unpaid at the time he seeks to redeem. He is only required to make this payment when he seeks to redeem from the tax sale. There is nothing in the law which requires him to pay a prior tax before he is permitted to pay subsequent taxes nor would there be any logical reason for the existence of such provision because if he does pay the subsequent taxes and leaves outstanding a prior certificate of sale the county or the holder may still procure tax deed for the property unless the taxpayer redeems from the sale for the prior taxes. The only reason that a redemption is not permitted without the payment of unpaid delinquent taxes existing at the time of redemption is that under the law no sale is authorized for the subsequent taxes and a redemption from the prior sale would leave the subsequent taxes remaining and the county would be compelled to hold tax sales therefor, and the taxpayer would then have three years from the date of the sale within which to redeem. The policy of the law is to grant no such extended time for the payment or redemption of these subsequent taxes but to require their payment at the time of a redemption from the previous sale.

It is therefore my opinion that a taxpayer has the right to pay subsequent delinquent taxes without redeeming from a prior sale of the property. If, however, he seeks to redeem from such prior sale he must

then pay the unpaid delinquent taxes existing at the time of such offer to redeem.

Very truly yours,

L. A. FOOT,

Attorney General.