

Opinion No. 160.

**Taxation—Tax Deed—Redemption.
Subsequent Taxes.**

HELD: Holders of 1937 tax sale certificates would be required to redeem and pay outstanding certificates of previous year before obtaining tax deed as provided by Chapter 54, Laws of 1937.

Holders of 1937 tax sale certificates would be required to pay all taxes ac-

cumulated subsequent to the date of the certificate on which the application for tax deed is based.

Chapter 54, Laws of 1937, does not apply to holders of tax certificates other than counties, at the time the said Act became effective and therefore a holder of a 1933 tax sale certificate would not be required to redeem and pay subsequent tax sale certificates but under the provisions of Section 2210 they may do so.

September 20, 1937.

Mr. Robert H. Allen
County Attorney
Virginia City, Montana

Dear Mr. Allen:

In regard to Chapter 54, Laws of 1937, you have submitted the following:

"1. Under this provision of the law would the holder of a 1937 tax certificate be required to redeem and pay outstanding certificates of previous years before obtaining a tax deed?"

"2. Does this law mean taxes accumulated subsequent to the date of the certificate on which the application is based?"

"3. Under this provision could the holder of a certificate issued in 1933 take tax deed where certificates issued in subsequent years were outstanding in the hands of strangers?"

1. Since Chapter 54 provides in part, "no tax deed shall issue to any purchaser, other than the county under said sales, until the applicant for such tax deed shall have paid and discharged all taxes, penalty and interest accumulated at the time of such application," your first question should be answered in the affirmative.

2. Said Chapter 54, which amends Section 2231, R. C. M. 1935, provides that applicant for tax deed shall have paid and discharged all taxes, penalty and interest accumulated at the time of application for tax deed. This would necessarily include taxes accumulated subsequent to the date of the certificate on which the application was based. It must be remembered, however, that said Chapter 54 does not apply to holders of tax sale certificates other than counties at the time the Act became effective on February 25, 1937,

and there are not at present any holders of tax sale certificates for 1937 taxes.

3. Section 2191, R. C. M. 1935, requires that the purchaser from the county of a tax sale certificate pay the amount of all taxes then due. In the absence of statute requiring it, he would not be required to pay off subsequent certificate holders, if any, before taking a tax deed but, for practical purposes, he would probably be required to do so. Section 2210, R. C. M. 1935, permits the purchaser to pay subsequent taxes. I am inclined to think that the difficulties of the county treasurer may be largely anticipated and that the answer to some of these questions should be delayed until actual facts can be presented.