

No. 390

COUNTIES—TAXATION—TAX DEEDS—TAX SALES,

rate of interest on contracts, sales to former owner

Held: Sales of tax deed land on contract to former owners under Chapter 181, Laws of 1939, bear six percentum interest on deferred payments, while sales under Chapter 171, Laws of 1941 (repealing Chapter 181, Laws of 1939) bear four percentum interest.

April 4, 1942.

Mr. J. E. McKenna
County Attorney
Fergus County
Lewistown, Montana

Dear Mr. McKenna:

Where the county sells tax deed lands on contract to a former owner, you request a ruling as to the rate of interest to be charged on deferred payments under the contract,

- (1) Subsequent to the enactment of Chapter 171, Laws of 1941;
- (2) Subsequent to the enactment of Chapter 181, Laws of 1939.

Chapter 171, Laws of 1941, became effective on March 19, 1941. Section 1 of Chapter 171 is all-inclusive and embraces all sales by counties of tax deed land. Section 2 of Chapter 171 refers to such sales and prescribes a uniform rate of four percentum per annum on deferred payments. This interest rate must now prevail as to all contracts, including purchases by a former owner, entered into since March 19, 1941.

This situation was not true for the space of time between March 17, 1939 (the effective date of Chapter 181, Laws of 1939), and March 19, 1941 (the effective date of Chapter 171, Laws of 1941). By Chapter 181, Laws of 1939, ordinary sales of tax deed lands on contract were on a four percentum per annum basis. However, by a special proviso in Chapter 181, the former owner could repurchase his land under special terms in installments "as provided in Section 4465.9" (Revised Codes of Montana, 1935). Section 4465.9 requires six percentum on deferred payments. Consequently, former owners repurchasing from the county under the special proviso of Chapter 181, *supra*, should have been required to pay six percentum per annum on deferred payments. (*Blackford v. Judith Basin County*, 109 Mont. 578, 98 Pac. (2nd) 872.) It was not within the power of the county commissioners to fix any other rate of interest than that specified and persons dealing with the commissioners were chargeable with knowledge of this fact. (*Judith Basin County v. Livingston*, 89 Mont. 438, 298 Pac. 356.)

It follows, therefore, I agree with you in your opinion that, as to contracts of repurchase by the former owner from the county, (1) those made

subsequent to March 19, 1941, bear interest at four percentum per annum on deferred payments and (2) those made between March 17, 1939, and March 19, 1941, bear interest at the rate of six percentum.

Sincerely yours,

JOHN W. BONNER
Attorney General