

## No. 511

TAX DEEDS—EFFECT OF TAX DEED ON  
CURRENT TAXES

**Held:** Taxes in process of assessment and levy, when tax deed issues to county, are cancelled by tax deed.

November 17, 1942.

Mr. Elmer Wang  
Chairman  
Board of County Commissioners  
Baker, Montana

Dear Mr. Wang:

You have stated notice of application for tax deed was given on July 15, 1942, tax deed issued to the county on September 29, 1942, and the original owner repurchased the land covered by said tax deed on October 17, 1942. The re-purchase was effected by an installment contract. You request the opinion of this office as to the effect of the transaction on 1942 taxes, and ask whether such taxes should be cancelled, added to the contract, or paid as current taxes.

It is assumed, for the purpose of this opinion, you refer to general taxes and special, local improvement, irrigation and drainage assessments are not included.

In *Blackford v. Judith Basin County*, 109 Mont. 578, 98 Pac. (2nd) 872, it appears the county obtained tax deed, on account of unpaid taxes for the years 1930 and 1935, inclusive. The deed was dated September 16th, 1936, at which time taxes for 1936 had been levied and had become a lien, but were not collected for the reason that—prior to their due date—the county had acquired title. In November, 1937, the original owner applied to purchase, under his preferential right. The question arose as to his right to purchase without payment of the 1936 taxes, and, as stated, in evasion of the 1937 taxes. The Court said:

“The second question is whether plaintiff is entitled ‘to redeem said lands by paying the taxes that were delinquent upon said lands for the years 1930 to 1935, inclusive,’ (with penalties and interest to date of tax deed), ‘without payment of the 1935 taxes and in evasion of the 1937 taxes. He was not attempting to redeem the land. The taxes had been cancelled by the issuance of the tax deed, and his title had been completely divested; there were no taxes to pay and nothing to redeem. Furthermore, there were no 1936 or 1937 taxes to pay or evade, since county property is exempt from taxation (Sec. 2, Art. XII, Const. Mont.), and whether the land is purchased by the plaintiff under his preferential right as former owner, or by the defendant Pioneer Ranch Company, Incorporated, under the general sales provision, it will be equally free of taxes for the period during which it was owned by the county and therefore was nontaxable.”

It is, therefore, the opinion of this office that, if general taxes were levied and assessed against the land in question in 1942, they were in effect cancelled by the tax deed proceedings, and should also be cancelled on the county records.

Sincerely yours,

R. V. BOTTOMLY  
Attorney General