

No. 55

**COUNTY TREASURER—REDEMPTION—PENALTY
AND INTEREST—TAX SALE CERTIFICATE**

Held: Where County Treasurer assigns tax sale certificate without collecting full amount due county, he may at any time proceed to collect balance due from assignee and upon redemption such amount is due county. Assignee is entitled only to amount he paid county plus interest thereon from date of assignment to date of redemption.

March 21, 1941.

Mr. R. F. Hibbs
County Attorney
Yellowstone County
Billings, Montana

Dear Mr. Hibbs:

You have submitted the following:

"Where a purchaser of a tax sale certificate has paid to the county only the net amount of the taxes (without the penalty and interest) is he now entitled to receive the penalty and interest from a redemptioner?"

"If the county, on redemption, receives penalty and interest on assigned certificates of sale, where and into what funds will the County Treasurer place the same?"

In answering your first question, it is assumed the County Treasurer did not collect from the person taking the tax sale assignment all that he should have collected, that is, the penalty and interest up to the date of assignment. Therefore, the assignee still owes the penalty and interest up to the date of assignment to the County Treasurer, as the County Treasurer may always collect any part of a tax that has not been paid.

As the assignee did not pay to the Treasurer the penalty and interest up to the date of assignment, upon redemption he would not be entitled thereto. The assignee, upon a redemption being made, will be entitled only to the amount he paid the county, plus interest thereon from the date of assignment to date of redemption. Upon redemption the Treasurer will collect the penalty and interest from the date of sale to the date of redemption and pay the assignee the amount he paid the county, plus interest from the date of assignment to the date of redemption; and such penalty and the interest from the date of sale up to the date of assignment of the certificate of sale belongs to the county—to be placed in the same funds in which it would have been placed without the enactment of Chapter 11 of the Laws of 1939. Section 2207, as amended by Chapter 24, Laws of 1939, Section 2210 as amended by Chapter 25, Laws of 1939, and Section 2202, Revised Codes of Montana, 1935, set forth the procedure.

Senate Bill No. 26, enacted by the Twenty-seventh session of the Legislative Assembly of the State of Montana and approved by the Governor on February 18, 1941, is not retroactive. The provisions thereof are per-

missive, in that the Act allows any person having an equitable or legal interest in real estate, which has been struck off to any county for delinquent taxes or on which the taxes are delinquent for the first installment of the year 1940, to redeem the same by paying the original taxes due thereon, without the payment of any penalty and interest, provided such redemption is made on or before the 31st day of May, 1942, and provided further that no assignment of the tax sale certificate has been issued.

Under said Act, Boards of County Commissioners are to proceed to order applications to be made for the issuance of tax deeds, the issuance of tax deeds to counties, the assignment of certificates of tax sales, as now provided by law, and to the same extent and effect as though this act had not been passed.

Sincerely yours,

JOHN W. BONNER
Attorney General

(Editor's Note: Senate Bill Number 26, referred to above, appears as Chapter 13, Laws of 1941.)