

As we understand your first question, you wish to know whether, if a person takes an assignment of a tax sale certificate after the effective date of the act, the assignment should be made without collection of penalty and interest.

The act in question, insofar as pertinent here, provides:

“That from and after the passage and approval of this act, any person having an equitable or a legal interest in real estate heretofore struck off to any county when such property was offered for sale for delinquent taxes and certificate of such sale issued to the county and when no assignment of such certificate has been made, or on which the taxes are delinquent for the first installment of the year 1942, shall be permitted to redeem the same by paying the original taxes due thereon, without the payment of any penalty or interest thereon, provided such redemption be made on or before the 1st day of July, 1943.”

You will note the act only applies to certificates of sale issued to the county which **have not been assigned by the county**, and further that the act does not apply to assignments but to redemptions, and that the right of redemption, without payment of penalty and interest, is confined to a person having an equitable or a legal interest in the real estate.

It therefore follows that an assignment made after the effective date of the act does not come within the provisions thereof, and that the assignee must pay to the county treasurer the amount for which the property was bid in by the county, with interest upon the original tax at the rate of two-thirds ( $\frac{2}{3}$ ) of one per cent (1%) per month, together with subsequent delinquent taxes, penalties, costs and interest, as provided by Chapter 24, Laws of 1939.

The act in question does not place any restriction on the county treasurer making an assignment of the certificate of sale, and the remission of penalty and interest only applies when the tax sale certificates remain with the county at the time of redemption.

If the tax sale certificate has been assigned by the county before redemption is made (and this, of course, would apply whether the assignment was made before or after the effective date of the act in question), the redemption must be in compliance with Chapter 25, Laws of 1939, providing:

#### Opinion No. 25.

#### Taxation—Redemption—Interest Charged on Redemption.

Held: Chapter 159, Laws of 1943, does not apply to assignee of county's certificate of tax sale. Eight per cent interest charged on redemption of real estate from tax sale when certificate is owned by an assignee of the county.

March 25, 1943.

Mr. W. M. Black  
County Attorney  
Toole County  
Shelby, Montana

Dear Mr. Black:

In connection with Senate Bill No. 183, effective as of March 3, 1943, and which will appear as Chapter 159 of the Session Laws of Montana, 1943, you ask the following questions:

“Is it the intent of this bill to waive penalty and interest to the record owner of real estate only, or would the remission also apply to an interested party taking an assignment of taxes as well? In other words, should assignments during this moratorium include penalty and interest, or not?”

“Under this act what interest rate would redemptioner on redemptions from assignments carry?”

"The redemptioner shall, in addition to the amount for which the said land was sold, with interest thereon, pay the subsequent taxes paid by the purchaser at such tax sale, or his assignee, with interest thereon at the rate of eight per cent per annum from the date of the payment of such taxes."

In Volume 19, Report and Official Opinions of the Attorney General, Opinion No. 34, it was properly held that under said Chapter 25 the proper rate of interest where the certificate is held by an assignee from the county is eight per cent per annum.

It follows the county treasurer should collect penalty and interest when making an assignment of the county's certificate of sale, and the rate of interest to be charged on a redemption from an assigned certificate of sale is eight per cent per annum, providing the assignment was made after February 15, 1939, the effective date of Chapter 25, Laws of 1939, but if assignment made before that date, the interest rate would be twelve per cent per annum as provided in Section 2210, Revised Codes of Montana, 1935.

Sincerely yours,  
R. V. BOTTOMLY  
Attorney General