

OPINION
53-107

December 29, 1953 (OPINION)

TAXATION

RE: Assignment of Delinquent Tax Certificate

Attorney Schulte requested that we render to you an opinion upon the question as to whether it is mandatory or discretionary with the county to assign tax certificates.

There is nothing in the statute which specifically states that the county must assign a tax certificate held by the county for delinquent taxes upon real estate, but neither is there any statute which says that the county may not do so. In fact the wording of the statute indicates the very thought that such assignments should be made. The delinquent taxes which are not sold during the sale of delinquent taxes at the regular December sale are bid in by the county. These delinquent taxes do not belong to the county as such but are made up of taxes due to the various municipalities and county. The county is merely the collecting agent for the various municipalities having levied such tax.

Section 57-2415 of the North Dakota Revised Code of 1943 states that lands bid in by the county at the tax sale shall be assessed and taxed like other real estate until redeemed, but if the tax certificate has been assigned, the county shall again offer the same for sale if the subsequent taxes have not been paid. Further calling your attention to section 57-2426, it will be noted that it authorizes the county to assign its interest in the tract of real property acquired at any tax sale and such certificate shall relate back to the date of the tax sale. From these sections, it is evident that the county not only has the right to assign its tax certificates, but that it should do so if an opportunity is presented.

The purpose of the county in bidding in these delinquent taxes where no private individual so bids is to hold the said property until these taxes are paid and if not paid, then the county will sell said property in order that it may distribute the proceeds to the various taxing districts.

It is, therefore, our opinion that if a county holds a tax certificate and sometime thereafter they are offered the money for an assignment thereof that the county is morally bound to accept such money and issue such assignments in order to fully perform the functions of the county in the collection of taxes.

ELMO T. CHRISTIANSON

Attorney General