

# Flathead County Treasurer

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## Real Property Tax Lien Procedures Manual

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### *Note:*

The statutes and regulations surrounding tax lien sales leave considerable room for interpretation. This policy manual is designed to provide Flathead County's interpretation of these statutes, but it is important to understand more than one interpretation of these statutes is possible. This policy manual is **not** legal advice nor does Flathead County provide legal advice to anyone regarding tax lien sales. This office is prohibited from advising anyone in any manner. Ultimately, purchasers or assignees of tax lien sale certificates are responsible for complying with all laws. Although Flathead County is tasked with conducting tax lien sales, numerous court cases have confirmed the ultimate responsibility for complying with the statutory structure rests with the purchasers or assignees of tax lien sale certificates.

Although statutes and regulations surrounding tax lien sales can be confusing and complicated, court cases have repeatedly found strict compliance with the statutory and regulatory framework is required in order for a tax deed to be issued. Flathead County strives to comply with the statutes, but it is ultimately the responsibility of the purchaser or assignee of a tax lien certificate to ensure all requirements have been met, even those over which the purchaser or assignee has no direct control.

Flathead County Treasurer's office does not conduct tax sale assignment business during the tax season months of May and November; resuming when the processing of current postmarked mail is complete.

### **Tax Lien Attachments**

#### *General Timeline for Attachment of Tax Lien:*

*(Timeline subject to change pursuant to flexibility provided by statute)*

<b>On or before October 31<sup>st</sup></b>	1 <sup>st</sup> and 2 <sup>nd</sup> Half Property Taxes Assessed and Owner Notified
<b>November 30<sup>th</sup></b>	1 <sup>st</sup> Half of Property Taxes Due
<b>December 1<sup>st</sup></b>	1 <sup>st</sup> Half Delinquent if Not Paid in Full
<b>May 31<sup>st</sup></b>	2 <sup>nd</sup> Half of Property Taxes Due
<b>June 1<sup>st</sup></b>	2 <sup>nd</sup> Half Delinquent if Not Paid in Full
<b>Last Monday in June (15-17-122 MCA)</b>	Notice of Pending Attachment of Tax Lien First Publication

#### *Conduct of Attachment of Tax Lien:*

Prior to attaching a tax lien, the county treasurer shall send notice of the pending attachment of a tax lien to the person to whom the property was assessed. The county treasurer shall attach a tax lien no later than

the first working day in August to properties on which the taxes are delinquent and for which proper notification was given. After attaching the tax lien, the county treasurer shall prepare a tax lien certificate. The county treasurer shall file the tax lien certificate with the county clerk and recorder.

### **Assignment of Tax Lien Sale Certificates**

#### *General Timeline for Assignment of Tax Lien Sale Certificates:*

Attachment of Tax Lien	County is considered purchaser of all tax liens
After Attachment of Tax Lien	All property can be purchased from the county through the assignment process.

#### *Conduct of Assignment Process:*

After the attachment of tax liens is finalized, the county has a tax lien on all parcels upon which the taxes remain delinquent. The record of the property in which the county is listed as the purchaser shall be made by the treasurer by a separate tax lien certificate of each property and by reference to the delinquent tax list. At this time, the assignment process may begin immediately and the list of properties for which the County is the purchaser shall be made available.

Assignments are taken on a first come first serve basis and subject only to document review to finalize the assignments. For those assignments mailed to the office, the priority of order of purchase will be determined by date of notice and postmark. If there are multiple notices from different individuals/companies dated the same date, the order of assignment will be determined by a lottery process. The lottery process will consist of a deck of cards, one card will be chosen on behalf of each party. The order will be highest card to lowest card; aces being low card. The company with the highest card will be the first purchaser of the first assignment.

The party seeking the assignment must provide proof of mailing the Notice of Pending Assignment. Proof must include a copy of the Notice of Pending Assignment sent as well as the certified mailing receipt with a postmark showing the date of mailing as well as the address to which the mailing was sent. The Notice of Pending Assignment must be postmarked at least 2 weeks prior to the date of payment but not earlier than August 15. A certified mailing receipt lacking either an address or a postmark is insufficient proof. If a large number of certified mailings are being sent, the third party can use the United States Postal Service's manifest mailing system. In this case, we need a copy of the official manifest document.

Assignees must present payment for the exact amount of the delinquency in order to take an assignment, a \$25.00 assignment fee per assessor number, a priority list on an excel spread sheet, and the assignee also needs to provide a W-9 form for any interest earned. If assignments include "re-assignments" or "Jr. Liens" a separate form of payment must be included. Upon document review and verification, an assignment of rights must be prepared and filed with the Clerk and Recorder. The original should be mailed to the assignee and a copy should be maintained by the Treasurer. Additionally, a copy of the assignment of rights must be mailed to the person to whom the taxes were originally assessed, at their address of record together with a statement that the person may contact the Treasurer for further information on lien assignments and property tax lien sales.

### **Multi-Year Issues**

Once a party has acquired a property tax lien by assignment of the lien from Flathead County, that party has the right to pay future property taxes assessed against the property on or after June 1 and prior to July 31st, if the taxes have not been paid by the property owner. If the property qualifies for the property tax assistance program provided for in 15-6-305, the subsequent taxes may be paid after the time period provided for in 15-16-102(4)(b) and prior to July 31. In Flathead County these accrual payments to the original assignment exempts the assignee from purchasing these taxes through the tax lien sale process. If the third party does not pay those accruals and the taxes go delinquent, then the option of “reassignments” or a “junior lien” is made available.

### **Reassignments**

In a reassignment situation, the new purchaser replaces the position of the original assignee including taxes, penalties, interest, and costs.

### **Junior Liens**

In a junior lien situation, a second assignee redeems the first lien but the redemption dates are resumed and the taxes, penalties, interest and costs are placed as accruals.

### **Redemption**

There are two types of property for purposes of redemption. In Flathead County we will call the two types Class A property and Class B property. Class A property is all property that is not considered to be Class B property. Class B property is property that has been subdivided as a residential or commercial lot, that has an SID or RSID assessment that is delinquent, and upon which no habitable dwelling or commercial structure is situated. All of those elements must be present in order to be considered Class B property, otherwise the property is deemed to be Class A property.

For Class A property, an eligible redeeming party may redeem a property tax lien by the first working day in August, 3 years after attachment of the tax lien.

For Class B property, an eligible redeeming party may redeem a property tax lien by the first working day in August, 2 years after attachment of the tax lien.

If a redemption is not made prior to the expiration of the redemption period, the tax lien may not be redeemed and a tax deed must be issued. The only exception to this rule is if the Notice That a Tax Deed May Be Issued was improperly made for any reason. If an eligible redeeming party attempts to redeem a tax lien after the redemption period as expired but before a tax deed has been issued, the Treasurer will hold the redemption payment in a secure location pending the document review for issuance of a tax deed. If document review of tax deed paperwork from assignee indicates that all paperwork is in order, the redemption payment will be returned to the party making payment in its original form. If all paperwork is not in order for the issuance of a tax deed, the Treasurer will deposit the redemption and issue a Certificate of Redemption.

#### *Conduct of Redemption Process:*

For tax liens held by a private party, the redeeming party must make full payment of all delinquent taxes including penalty, interest, and costs. This includes currently assessed delinquencies. Upon redemption, the Tax Lien Sale Certificate shall be marked with the word “redeemed”, the date of the redemption and the name of the redemptioner or in the record required in 15-17-214. Additionally, the Treasurer shall

execute a Certificate of Redemption to be filed with the Clerk and Recorder. The original of the Certificate of Redemption should be given to the redemptioner, a copy sent to the holder of the tax lien, and a copy retained by the Treasurer. After redemption is processed, distributions to third parties will be mailed.

### **Tax Deed and Extinguishment of Tax Lien**

For Class A property, a Notice That A Tax Deed May Be Issued must be given between May 1 and May 30 of the year in which the redemption period expires.

Additionally, a person required to give notice shall, within the period described above give notice as provided in 7-1-2121 and in the form required by 15-18-215. Proof of Notice must be given as provided in 15-18-216 and must be filed with the Clerk and Recorder. If the holder of the tax lien is a third party, the Proof of Notice must be filed within 30 days of the mailing or publication of notice.

For property tax liens held by Flathead County, the County Commissioners must approve of and direct the issuance of a tax deed prior to the Treasurer issuing a tax deed. If the County Commissioners do approve of and direct the issuance of a tax deed, the Treasurer shall execute and record with the Clerk and Recorder's office a tax deed upon the expiration of the redemption period.

For those property tax liens held by third parties, the Treasurer, after the third party has paid the costs of the Treasurer's office associated with the giving of Notice That A Tax Deed May Be Issued along with the statutory fee of \$25.00, shall prepare, execute for recording, and record with the Clerk and Recorder's office a tax deed upon the expiration of the redemption period.

For Class A property, between January 1 and January 31<sup>st</sup> of the year in the redemption period expires the county treasurer shall notify the assignee of the obligation to give notice that a tax deed will be issued unless the property tax lien is redeemed. The Notice of Obligation may be sent by certified mail, return receipt requested, to the assignee at the address contained on the assignment certificate provided for in 15-17-323.

#### *Conduct of Extinguishment Process:*

At the time for cancelling the Tax Assignment Certificate, the Treasurer shall prepare a Notice of Cancellation, which must be filed with the Clerk and Recorder's office. Upon the filing of the Notice of Cancellation, the tax lien certificate and the assignment certificate is cancelled. The tax lien for that property is then extinguished and has no further force or effect.

#### *Conduct of Issuance of Tax Deed for Third Parties:*

Document review is crucial to the issuance of any tax deed as even minor deviations from the statutory process will remove jurisdiction from the Treasurer to issue a tax deed and consequently the Treasurer cannot legally issue a tax deed. During document review, the third party must provide the Treasurer's office with a copy of the title guarantee utilized for sending notices. All parties listed on the title guarantee must have received the Notice That A Tax Deed May Be Issued, which must be verified by the third party providing a return receipt. If a return receipt is not provided, the third party must provide the original mailing that has been marked as undelivered or undeliverable. The person required to give notice shall, within May 1 and May 30 of the year in which the redemption period expires, give notice as provided in 7-21-2121 and in the form required by 15-18-215. The third party must provide proof of publication. All of the requirements set forth in this paragraph must be verified by a Proof of Notice

provided in 15-18-216 and must be filed with the Clerk and Recorder's office within 30 days of the mailing or publishing of the notice.

Upon the expiration of the redemption period, the document review should be completed and the Treasurer must issue a tax deed. The Treasurer shall not record or provide the signed tax deed to the third party purchaser until the statutory \$25.00 fee together with any costs of giving the Notice That A Tax Deed May Be Issued have been paid in full by the third party purchaser. Once those costs have been paid in the full, the Treasurer shall record the tax deed with the Clerk and Recorder's office, together with a Realty Transfer Certificate filled out and signed by the Treasurer. The original should be sent to the purchaser after recording and the Treasurer should maintain a hard copy of the filed tax deed.

### **References & Definitions**

#### *Tax Due Date:*

If one of the due dates falls on a holiday or a weekend, the taxes may be paid without penalty and interest on or before 5 p.m. of the next business day. The Flathead County Treasurer will send to the last-known address of each taxpayer a property tax bill 30 days or more before the November 30<sup>th</sup> due date. If the Treasurer fails to mail the notices more than 30 days prior to November 30<sup>th</sup>, the taxpayer has 30 days from the postmark of the property tax bill to pay the taxes.

#### *Notice of Pending Attachment of Tax Lien:*

Notice of pending attachment of tax lien must be first published on or before the last Monday of June and notice must be given as provided in 7-1-2121.

#### *Third Party Notices:*

If a third party wishes to purchase a tax assignment certificate, they must have provided written notice to the person to whom the property was assessed at least 2 weeks prior to the date of the payment but not earlier than August 15. The person making the payment shall provide proof of the mailing.

#### *Eligible Redeeming Party:*

Only certain parties are eligible to redeem a property tax lien. Parties that are eligible to redeem a property tax lien are as follows: (i) owner, (ii) the holder of an unrecorded or improperly recorded interest, (iii) the occupant of the property, or (iv) any interested party by the first working day in August, 3 years after attachment of the tax lien.

#### *Cost:*

The term "cost" for third party purchasers for tax liens includes (i) postage for certified mailings and certified mailings with return receipt requested, (ii) a title search, to the extent necessary to identify interested persons entitled to notice of the pending issuance of a tax deed, (iii) publishing costs for required publications, and (iv) filing cost for proof of notice. The term "cost" for the county means the cost incurred by the county as a result of a taxpayer's failure to pay taxes when due. It includes but is not limited to any actual out-of-pocket expenses incurred by the county plus the administrative cost of (i) preparing the list of delinquent taxes; (ii) preparing the notice of pending attachment of a tax lien; (iii) assigning the county's interest in a tax lien to a third party; (iv) identifying interested persons entitled to notice of the pending issuance of a tax deed; (v) notifying interested persons; (vi) issuing the tax deed; and (vii) any other administrative task associated with accounting for or collecting delinquent taxes.

**Forms**

*Notice of Pending Assignment:*

**NOTICE OF PENDING ASSIGNMENT**

(Pursuant to 15-17-212 and 15-17-323, MCA)

**THIS NOTICE IS VERY IMPORTANT** with regard to the tax lien, which Flathead County holds on the following property. If the delinquent taxes are not paid by \_\_\_\_\_, an assignment of the tax lien will be purchased. **THIS COULD RESULT IN THE LOSS OF YOUR PROPERTY LISTED BELOW.**

Please contact the Flathead County Treasurer with questions or to pay the delinquent taxes.:

Flathead County Treasurer  
Property Tax Department  
935 1st Ave West Ste T  
Kalispell MT 59901  
Phone: (406) 758-5680  
Fax: (406) 758-5864  
[http://flathead.mt.gov/property\\_tax](http://flathead.mt.gov/property_tax)

REQUIRED INFORMATION:

\_\_\_\_\_  
Owner of Record

\_\_\_\_\_  
Mailing address

\_\_\_\_\_  
Legal description

\_\_\_\_\_  
Parcel number

\_\_\_\_\_  
Geocode (s)

\_\_\_\_\_  
Date of notice

\_\_\_\_\_  
Signature of Interested Assignee

\_\_\_\_\_  
Printed Name of Interested Assignee

*Tax Lien Sale Certificate:*

**TAX LIEN CERTIFICATE**

**No.** \_\_\_\_\_

**Assessor #:** \_\_\_\_\_

On \_\_\_\_\_, \_\_\_\_\_, the property taxes on the following described property became delinquent:

(Description of Property on Which Taxes Were Assessed)

The taxes on the property were assessed to:

(Name and Address of Person to Whom Taxes Were Assessed)

The tax lien on the property was attached by:

Flathead County  
935 1<sup>st</sup> Ave W Ste T  
Kalispell MT 59901

On \_\_\_\_\_.

(Date of Attachment)

The amount paid to liquidate the delinquency was:

Taxes: \_\_\_\_\_

Penalty and Interest: \_\_\_\_\_

Costs: \_\_\_\_\_

**Total:** \_\_\_\_\_

This certificate represents a lien on the property that may lead to the issuance of a tax deed. The purchaser of the property will be entitled to a tax deed upon compliance with MCA 15-16-212, but no earlier than \_\_\_\_\_, 20\_\_\_\_.

Witness my hand and official seal of office this \_\_\_\_\_ of \_\_\_\_\_, 20\_\_\_\_\_.



*Adele Krantz*

Adele Krantz,  
FLATHEAD COUNTY TREASURER

*Tax Sale Assignment:*

Assignment Number \_\_\_\_\_

Assessor Number \_\_\_\_ - \_\_\_\_\_

**ASSIGNMENT OF COUNTY'S INTEREST IN  
PROPERTY TAX LIEN**

I, Adele Krantz, the Treasurer of Flathead County, State of Montana, hereby certify tax lien \_\_\_\_\_  
\_\_\_\_\_ (tax lien certificate number) was attached on \_\_\_\_\_, \_\_\_\_\_ (dated), for the purpose  
of liquidating delinquent assessments, on the following property:

(Property Description)

Because delinquent taxes, penalties, interest, and costs remained unpaid on the date of the attachment of the tax lien, the county is the possessor of the tax lien. As of the date of this assignment certificate, the delinquency, including penalties, interest, and costs amounting to \$\_\_\_\_\_, has not been liquidated by the person to whom the property was assessed, nor has the delinquency been otherwise redeemed.

Because there has been no liquidation of the delinquency or other redemption, I hereby assign all rights, title, and interest of the county of Flathead, State of Montana, acquired in the property by virtue of attachment of a tax lien to:

(Name and Address of Assignee)

to proceed to obtain a tax deed to the property or receive payment in case of redemption as provided by law.

Witness my hand and official seal of office this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Adele Krantz  
FLATHEAD COUNTY

by \_\_\_\_\_

*Certificate of Redemption:*

**Certificate of Redemption**

I, Adele Krantz, the treasurer of Flathead County, certify the following:

1. For the tax years \_\_\_\_\_ (years), the taxes were delinquent on the following real property:  
(description of the property)

2. The tax lien was attached to the property on \_\_\_\_\_ (date of the attachment of the tax lien). Tax Lien Certificate No. \_\_\_\_\_ and Assignment Certificate No. \_\_\_\_\_ (if applicable).

3. The tax lien was redeemed on \_\_\_\_\_ (date of redemption) by the payment of:

Taxes \_\_\_\_\_

Penalty \_\_\_\_\_

Interest \_\_\_\_\_

Cost \_\_\_\_\_

Total \_\_\_\_\_

Receipt Number \_\_\_\_\_

4. The redemption was made by \_\_\_\_\_ (name of redemptioner).

Date: \_\_\_\_\_

Signature: \_\_\_\_\_ (County Treasurer)

*Notice that a Tax Deed May Be Issued:*

**15-18-215. Form of notice that tax deed may issue.** Section 15-18-212 requires that notice be given to all persons considered interested parties and to the current occupant of property that may be lost to a tax deed. The notice must be made as follows:

**NOTICE THAT A TAX DEED MAY BE ISSUED  
IF YOU DO NOT RESPOND TO THIS NOTICE, YOU WILL LOSE YOUR PROPERTY,**

TO \_\_\_\_\_  
*Name and Address (when unknown, so state)*

Pursuant to section 15-18-212, Montana Code Annotated, NOTICE IS HEREBY GIVEN:

1. As a result of a property tax delinquency, a property tax lien exists on the following described real property in which you may have an interest:

\_\_\_\_\_  
*Legal Description*

2. The property taxes became delinquent on \_\_\_\_\_.

3. The property tax lien was attached on \_\_\_\_\_.

4. The lien was subsequently assigned to \_\_\_\_\_ (if applicable).

5. As of the date of this notice, the amount of tax due is:

Taxes \_\_\_\_\_

Penalty \_\_\_\_\_

Interest \_\_\_\_\_

Cost \_\_\_\_\_

**TOTAL:** \_\_\_\_\_

6. For the property tax lien to be liquidated, the total amount listed in paragraph 5 must be paid by \_\_\_\_\_ which is the date that the redemption period expires or expired.

7. If all taxes, penalties, interest, and costs are not paid to the COUNTY TREASURER on or prior to \_\_\_\_\_ which is the date the redemption period expires, a tax deed may be issued to the assignee or county that is the possessor of the tax lien on the day following the date that the redemption period expires.

8. The business address and telephone number of the county treasurer who is responsible for issuing the tax deed is:

FLATHEAD COUNTY TREASURER  
935 1<sup>ST</sup> AVE WEST STE T  
KALISPELL MT 59901  
406-758-5680

FURTHER NOTICE FOR THOSE PERSONS LISTED ABOVE WHOSE ADDRESSES ARE UNKNOWN:

1. The address of the interested party is unknown.
2. The published notice meets the legal requirements for notice of a pending tax deed issuance.
3. The interested party's rights in the property may be in jeopardy.

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Signature*

**IF YOU DO NOT RESPOND TO THIS NOTICE, YOU WILL LOSE YOUR PROPERTY.**

*Proof of Notice:*

**15-18-216. Form of proof of notice.** Section 15-18-212 requires that proof of notice must be filed with the county clerk. The proof of notice must be made as follows:

**PROOF OF NOTICE**

I, \_\_\_\_\_  
*Name and address*

acting as or on behalf of the owner of the property tax lien, have complied with the notice requirements of Title 15, chapter 18, MCA, as follows:

1. A "Notice that a Tax Deed May Be Issued" was mailed to the owners, current occupant, and parties, as required by 15-18-212, MCA. A copy of each notice is attached or is on file in the office of the county clerk.
2. The notices were mailed by certified mail, return receipt requested. Copies of the return receipts are attached or are on file in the office of the county clerk.
3. Notice was given by publishing in the newspaper as required by 7-1-2121, which is Daily Interlake, on \_\_\_\_\_ (date of first publication) and \_\_\_\_\_ (date of second publication) or posting in the three public places designated by the governing body, which are \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_ (publishing places).

Proof of publication is attached.

State of \_\_\_\_\_  
County of \_\_\_\_\_

The record was signed before me on \_\_\_\_\_ (date) by \_\_\_\_\_ (name of individual (s)).

(Official stamp)

\_\_\_\_\_  
(Signature of notarial officer)

\_\_\_\_\_  
Title of Officer (if not shown in stamp)

*Tax Deed:*

**15-18-213. Form of tax deed** (1) The form of a tax deed issued under the provisions of this chapter, executed by a county treasurer, must be made as follows:

Return to:  
(Name and Address)

**TAX DEED**

**Assessor No:** \_\_\_\_ - \_\_\_\_\_

This deed is made by Adele Krantz, County Treasurer of the County of Flathead, in the State of Montana, to \_\_\_\_\_ (Name of assignee, the assignee's agent, or county that is the possessor of the tax lien), as provided by the laws of the State of Montana:

Whereas, there was assessed for \_\_\_\_\_ (year) the following property:

(Description of Property); and

Whereas, the taxes for \_\_\_\_\_ (year) levied against the property amounted to \$ \_\_\_\_\_; and

Whereas, the taxes were not paid and a property tax lien for the payment of the taxes was attached by Flathead County was assigned to \_\_\_\_\_ (if applicable, name of assignee) on \_\_\_\_\_, \_\_\_\_\_ (date including the year) for the sum of \$ \_\_\_\_\_, which amount included delinquent taxes in amount of \$ \_\_\_\_\_, penalties in the amount of \$ \_\_\_\_\_, interest in the amount of \$ \_\_\_\_\_; and other costs in the amount of \$ \_\_\_\_\_ and

Whereas, a tax lien certificate was issued and filed as required by law, and

Whereas, notice was given to required interested parties in accordance with 15-18-212 that the issuance of a tax deed was pending; and

Whereas, the property tax lien has not been redeemed by \_\_\_\_\_ (name of former owner), or any other person(s) entitled to redeem it.

Now, therefore, I, Adele Krantz, County Treasurer of the County of Flathead, in the State of Montana, in consideration of the sum of \$ \_\_\_\_\_ paid, hereby grant to \_\_\_\_\_ (name of the assignee or the assignee's agent or county that is the possessor of the tax lien) all the property situated in Flathead County, State of Montana, described in this document.

Witness my hand on this date \_\_\_\_\_ (date, including the year).

\_\_\_\_\_  
Adele Krantz  
FLATHEAD COUNTY TREASURER

