

**LETTER OPINION
93-L-308**

October 25, 1993

Mr. Michel W. Stefonowicz
Divide County State's Attorney
P.O. Box 289
Crosby, ND 58730-0289

Dear Mr. Stefonowicz:

Thank you for your letter inquiring whether the provisions of N.D.C.C. ? 11-14-08 absolve the county treasurer from the obligation to bill and collect delinquent real estate taxes. If so, you wish to know whether this duty becomes the obligation of the county auditor.

For the following reasons, it is my opinion that neither the county treasurer nor the county auditor is obligated to bill for delinquent property taxes.

N.D.C.C. ? 11-14-08 provides, in part, that the county treasurer shall make an annual accounting for the collection of current taxes. As part of that process, the county treasurer shall provide the county auditor with a list of delinquent real estate taxes.

N.D.C.C. ? 57-20-07 provides that the county treasurer shall be the receiver and collector of all property taxes. The term, "collector," in N.D.C.C. ? 57-20-07, is used in the passive sense, i.e., the county treasurer is simply the person who accepts payment of taxes. 1967 N.D. Op. Att'y Gen. 278.

N.D.C.C. ? 57-24-01 provides as follows:

Treasurer to give notice of tax sale by mail.
Between the first day and fifteenth day of November in each year, the county treasurer shall mail to each owner of any lot or tract of land subject to

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sale at the delinquent tax sale provided for in this chapter, a notice giving the legal description of such lot or tract to be offered for sale, and stating that such lot or tract to be offered for sale, and stating that such lot or tract will be sold for delinquent taxes unless such delinquent tax, with penalty, interest, and cost of advertising, is paid prior to the sale on the second Tuesday in December following.

N.D.C.C. ? 57-26-06 provides as follows:

Duties of auditor and treasurer upon redemption.

The county auditor shall certify the amount due upon redemption, and on payment of the same to the county treasurer, the treasurer shall make a receipt in duplicate for the certified amount, describing the property redeemed. One copy of such receipt must be filed with the county auditor and has the effect of annulling the sale. A record thereupon must be made in the auditor's tax sale record showing such redemption.

While it is clear that the process for the sale of land for delinquent taxes requires the joint and cooperative efforts of the county treasurer and the county auditor, neither is required to create a billing for delinquent taxes.

Sincerely,

Heidi Heitkamp
ATTORNEY GENERAL

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