

CLAYTON COUNTY
TERMS AND CONDITIONS GOVERNING THE ANNUAL TAX SALE OF
JUNE 18, 2018 AND ADJOURNMENTS OR ASSIGNMENTS THEREOF

The 2018 annual tax sale will be held by the Clayton County Treasurer on the third Monday in June at 1:30 p.m. for as long as bidders are present, or until every parcel has been offered for sale. Each registered bidder will be assigned a bidder number upon registration and will receive a corresponding bidder number the afternoon of the sale. The sale will be conducted on a lottery basis. Registered bidder numbers will be entered into a computer generated random drawing process to determine one buyer for each parcel offered.

The following information is provided to assist you in purchasing delinquent taxes at tax sale or in obtaining an assignment of a tax sale certificate:

Section-1 Registering for the Tax Sale

All bidders must register prior to the tax sale. Deadline for registration is **12:00 Noon Thursday, June 14, 2018**. Any person failing to return the completed forms in a timely fashion will not be allowed to bid or participate in the Treasurer's Annual Tax Sale on Monday, June 18, 2018. A bidder will not be considered registered until all required documents and fees are received by the Treasurer's Office 111 High Street NE, PO Box 417, Elkader, IA 52043. Postmarks will not be acceptable proof of timely registration.

Registration fee schedule:

Registration fees are non-refundable.

- The registration fee is \$25.00

The registration fee includes bidding at the June 2018 sale and all associated adjourned tax sales.

The bidder must properly complete or provide the following forms:

- a. 'Tax Sale Bidder Registration' – A registered bidder must complete the 'Tax Sale Bidder Registration form each year.
- b. 'Proof of Eligibility Statement' – One form for each registration form must be completed to certify your eligibility. This must be signed and dated.
- c. 'W-9' – Each registered bidder must complete and sign a 'W-9' each year. To insure that the treasurer has your current information we require a new form each year that you bid at our sale. An IRS form W-9 (rev. November 2017) is provided. This information is required to issue an accurate 1099-INT statement with the appropriate Social Security Number or taxpayer identification number. *A sole proprietor may have an SSN or a FEIN. However, you must always furnish your individual name, regardless of whether you use a SSN or FEIN. A sole proprietor may provide a business name, but you will be required by the treasurer to list your individual name first on the accounts with the treasurer.*
- d. 'Certificate of Existence' - Provide proof of compliance with House File 256 – Iowa Code § 446.16 new subsection 4 which requires that a person, other than an individual, must have a federal tax identification number and either a 'Certificate of Existence' (designation of agent for service for process on file with the secretary of state) OR a 'verified statement' meeting the requirements of Chapter 547, Trade Name Laws, on file with the Clayton County Recorder. This law affects corporations, LLC's and partnerships investing in tax sales. The intent of this law change is to ensure that only legal entities can participate. If applicable to you, file the documents by contacting either:
Iowa Secretary of State Paul D. Pate
Phone 515-281-5204 or email sos@sos.iowa.gov
Clayton County Recorder Sue Meyer
Phone 563-245-2710 or email smeyer@claytoncountyia.gov

Each 'Tax Sale Bidder Registration' form and 'W-9' form will be reviewed for completeness and accuracy. Errors, omissions, or misrepresentations by a tax sale bidder may disqualify the bidder from the sale and all certificates purchased by the disqualified bidder during the sale may be canceled and re-offered to other properly registered bidders.

All bidders must pre-register by 12:00 Noon Thursday, June 14, 2018 to be eligible.

Please address mailed/delivered registration forms to:

Clayton County Treasurer
Attn: Tax Office
111 High St NE
PO Box 417
Elkader, IA 52043-0417

Proof of age and identity

All bidders and representatives must be over the age of 18 years as of June 18, 2018. The treasurer requires valid proof of age. A driver's license or non-driver ID issued by a state agency must be shown. Bidders should be prepared to show proof of identity upon entering the building.

Section-2 Electronic Devices Prohibited

Cellular phones, pagers, tape recorders, camcorders, and other audible electronic devices are to be turned off during the sale. Laptop or notebook computers are allowed only if they are operated from battery packs. A violation in the use of electronic devices may result in the disqualification of the bidder.

Section-3 Bidding at Tax Sale

You or the party which you represent may not be entitled to bid at tax sale and become a tax sale purchaser by reason of having a vested interest in the parcel. A Tax Sale Certificate of Purchase and/or a Treasurer's Deed can be set aside by the courts if it is determined that the tax sale purchaser was ineligible to bid at tax sale. The general rule is that a tax sale purchaser should never have an interest or lien in the parcel offered for sale.

You should consult with your legal counsel to determine your right to bid and become a tax sale purchaser.

Parcels with delinquent taxes are offered for sale alphabetically by district, name, legal description, and parcel number as reflected in the official tax sale publication. It is the bidder's responsibility to be prepared for the sale and to know the district, name, and the corresponding legal description(s) upon which you intend to bid.

Bidder numbers

Bidder numbers will be entered into the tax sale random drawing process. A bidder is required to check-in at the registration desk **prior to the start of the sale** in order to have their bidder number entered in the tax sale random drawing process. The Annual Tax Sale will begin promptly at 1:30 PM. **If a bidder fails to check-in at the registration desk the bidder number will be idled and will not be included in the random drawing process resulting in the elimination of the bidder from the Annual Tax Sale. BIDDERS MUST CHECK IN BEFORE 1:15. NO LATE CHECK-INS ALLOWED!**

Each item will be offered for sale to all properly registered bidders beginning with an opening bid of 100% undivided interest. Once the item to be sold has been announced, bidders may bid downward a percentage of undivided interest. "Bid downs" will range in whole percentage points from 99% to 1%. If, immediately after reading the district, name of deed holder, and the amount of taxes due, treasurer's staff does not clearly hear the words "bid down" from any bidder, a randomly drawn number will be offered at 100% and if accepted by the bidder whose number is drawn said property will be sold for 100% undivided interest in the property.

A tax sale can be set aside in a situation where a combination of bidders agree not to compete with each other in a bid-down process and one of them becomes the tax sale buyer. Such fraudulent collusion prevents selling an item for the smallest percentage of undivided interest of the parcel. This practice is prohibited at the Clayton County Annual Tax Sale and violation may disqualify a bidder from the sale.

When it is determined that there are no further bids and the bid is a tie, a bidder will be chosen by the random drawing process. The bidder selected at random must immediately accept the purchase of the item by announcing, "yes", or refuse the item by announcing, "no", in which case another bidder will be randomly selected. If there is not a tie bid, the sale will be awarded to the lone active bidder. A "yes" response results in an obligation on the part of the bidder to pay for the certificate.

If there is no response from a bidder whose number has been selected, that bidder number will be "idled" until the next property is sold, at which time the bidder number can be reactivated by request of the bidder. If it has been determined that a bidder is not in attendance, that bidder number will be "idled" for the duration of the sale. The bidder is responsible to make sure their number was activated through the registration "check-in" process prior to the start of the sale.

Section- 4 Purchasing Tax Sale Certificates

Payment is required at the conclusion of the sale. An investor group may pay for all of their bidder numbers tax sale purchases with one check or transaction. The amount collected will include all delinquent taxes, special assessments, interest, special assessment collection fees, costs and a \$20.00 certificate fee for each certificate issued to you.

Buyers are required to review all items listed on the summary report provided prior to settlement and notify Treasurer's Office staff of any discrepancy **before** making payment. Treasurer's staff will resolve all reported discrepancies.

Payment must be in the form of a personal or business check, money order, or any form of guaranteed funds. Two-party checks will not be accepted for payment.

The county treasurer reserves the right to require personal identification at the time of settlement. Failure to make payment at the end of the sale will result in those items being re-offered to other bidders at adjourned sale. If a tax sale buyer's check does not clear their bank account due to non-sufficient funds, account closed, or any other reason, the buyer will have five business days following notification from the treasurer to repay with guaranteed funds or the tax sale certificates will be canceled. If repaid with guaranteed funds, a \$20.00 service fee will be assessed for each check returned unpaid.

The original certificates will be kept in the Treasurer's Office. We will email a copy of the certificates once our record keeping is completed. It is the buyer's responsibility to verify that the tax sale certificate copies received are correct for the parcels purchased.

At the end of the calendar year the treasurer will issue a 1099-INT form to you, the Internal Revenue Service and the Iowa Department of Revenue if the accumulative interest paid to you during the calendar year is equal to or exceeds \$600.00. You may use this information when filing your Federal and State Income Tax returns. All interest will be reported.

The Tax Sale Certificate of purchase does not convey title to the purchaser. DO NOT begin any work on the property or trespass on it. The title holder of record or other interested party retains the right to redeem within a specified period of time, depending on the type of tax sale. If the sale remains unredeemed after the statutory period, as shown below in items 8a and 8b, the purchaser may begin action to obtain a tax sale deed.

Section-5 Notification of Tax Sale

For each parcel sold, the Clayton County Treasurer shall notify the party in whose name the parcel was taxed, according to the treasurer's records at the time of the sale that the parcel was sold for delinquent taxes at the tax sale. The notice of sold taxes shall be sent by regular mail within fifteen days from the date of the annual sale or any adjourned sale.

Section-6 Reimbursement of Tax Sale Redemption

Except for certificates held by a county, redemption is not valid unless received by the County Treasurer prior to the close of business on the 90th day from the date of completed service.

A redeemed tax sale will include:

- A. The original tax sale amount (net tax, penalty, costs) and \$20.00 Tax Sale Certificate fee paid by the purchaser at the time of the sale.
- B. Interest in the amount of 2% per month calculated against the amount for which the parcel was sold, including the amount paid for the certificate of purchase. Each fraction of a month is counted as a whole month.
- C. Subsequent tax payments paid and properly reported by the purchaser as an addition to the sale, with interest in the amount of 2% per month, beginning with the month the subsequent payment is posted to the county system to the month of redemption. Each fraction of a month will count as a whole month (refer to section 7: Payment of Subsequent Taxes).
- D. Valid costs incurred by the certificate holder of record and posted to the county system for action taken toward obtaining a tax sale deed. Costs not posted to the county system before redemption shall not be collected by the County Treasurer.

The cost of serving the notice, including the cost of sending certified mail notices, and the cost of publication under § 447.10 Code of Iowa, if publication is required, shall be added to the amount necessary to redeem. The cost of a record search shall also be added to the amount necessary to redeem. However, if the certificate holder is other than a county, the search must be performed by an abstractor who is an active participant in the title guaranty program under Iowa Code § 16.91 or by an attorney licensed to practice law in the state of Iowa, and the amount of the cost of the record search that may be added to the amount necessary to redeem shall not exceed \$300. To clarify costs you may reference § 447.13 Code of Iowa.

The County Treasurer requires a copy of the newspaper publisher's invoice and a statement from the certificate holder substantiating the reason service was made by publication prior to posting publication costs to the amount necessary to redeem to determine whether publication costs are valid. Fees for publication, if publication is required, shall not exceed the customary publication fees for official county publications.

By statute, § 447.12 Code of Iowa, costs cannot be filed with the County Treasurer prior to the filing of the '90 Day Notice of Right of Redemption' affidavit with the County Treasurer.

When a property owner redeems his taxes, the Treasurer's Office will issue a check for the redemption amount to the tax sale purchaser. A copy of the redemption certificate will be enclosed which should be retained for income tax purposes.

Section-7 Payment of Subsequent Taxes by Purchaser

A tax sale purchaser may pay subsequent taxes and special assessments on the same parcel on which they hold the tax sale certificate, beginning one month and fourteen days following the date from which an installment becomes delinquent, usually November 15th and May 15th. The purchaser must request statements and inform the Tax Department of the subsequent payment so it is paid and recorded properly as an addition to the sale. This request is all inclusive of any and all subsequent tax paid through the Office of Clayton County Treasurer. Only items due in the current fiscal year may be paid on a "subsequent list". Special assessments due in future years cannot be paid until the fiscal year in which they become due. Recorded sub-list payments will accrue interest at the rate of 2 per cent per month from the month of payment by the certificate holder to the month of redemption. A subsequent payment must be **received and recorded** by the treasurer in the county system no later than **two p.m.** (two o'clock p.m.) on the **last business day** of the month for interest for that month to accrue and be added to the amount due under Iowa Code § 447.1. Late interest shall be calculated through the date that the subsequent payment is recorded by the treasurer in the county system. In no instance shall the date of postmark of a subsequent payment be used by the treasurer either to calculate interest or to determine whether interest shall accrue on the subsequent payment.

Section-8 90 Day Notice of Right of Redemption Affidavit

Service is completed when the certificate holder files the 90 day affidavit with the treasurer. The certificate holder is responsible for determining the status of a tax sale before serving the '90 Day Notice of Right of Redemption' to interested parties. It is a prohibited practice for the tax sale buyer to serve the '90 Day Notice of Right of Redemption' to an individual if the tax sale has already been redeemed. A violation of this policy may result in the tax sale buyer being barred from future tax sales in Clayton County.

Service must be compliant with the law in effect at the time of the tax sale.

(a) **REGULAR TAX SALE:**

A tax sale certificate holder may serve '90 Day Notice of Right of Redemption' after one year and nine months from the date of sale. **Any certificate holder who serves said notice or a similarly worded notice before the expiration of this time period may be barred from future tax sales in Clayton County.** It is Clayton County's intent to afford all property owners with all of the rights and remedies of the Iowa statutes.

(b) **PUBLIC BIDDER SALE:**

A tax sale certificate holder may serve a 'Notice of Expiration of Right of Redemption' after nine months from the date of sale. **Any certificate holder who serves said notice or a similarly worded notice before the expiration of this time period may be barred from future tax sales in Clayton County.** It is Clayton County's intent to afford all property owners with all of the rights and remedies of the Iowa statutes.

Section-9 Cancellation of Tax Sale Certificate

Failure to file 90-day Notice of Expiration of Right of Redemption Affidavit

If three years have elapsed from the date of the sale, the certificate has not been redeemed, and the 90-day Notice of Expiration of Right of Redemption Affidavit of Service has not been filed with the county treasurer, the treasurer will cancel the tax sale certificate. The tax sale certificate holder is not entitled to a refund. However, if the filing of the affidavit of service is stayed by operation of law, the time period for the filing of the affidavit shall not expire until the later of six months after the stay has been lifted or three years from the time of the tax sale.

Section-10 Assignment of a Tax Sale Certificate

The tax sale certificate of purchase is assignable by endorsement of the certificate and payment by the assignee of a \$100.00 assignment transaction fee. You must contact the treasurer's office to obtain the original certificate for assignment. The assigned certificate must be returned to the treasurer's office for recording on the county's system. An assignment is not considered valid until recorded on the county's system by the treasurer. A certificate cannot be assigned to another buyer who has redemption rights, except when the assignment is to a municipality. The assignor may not assign a certificate of purchase to more than one assignee/buyer number.

A tax sale certificate of purchase or a tax sale deed can be set aside if it is determined that the tax sale buyer or assignee was ineligible to purchase the tax sale certificate. The general rule is that a tax sale buyer or assignee should never have an interest or lien in the item offered for sale. A prospective bidder should consult with legal counsel to determine the right to become a tax sale buyer, either through bid or through assignment.

Upon treasurer's office receipt of the \$100.00 assignment transaction fee and the endorsed certificate, the assignment will vest in the assignee all the rights and title of the assignor. Please contact the tax office at (563) 245-1807 regarding the assignment of a certificate.

If the original certificate of purchase has been lost or destroyed, a duplicate can be obtained from the Tax Department at a cost of \$ 20.00.

When a buyer requests the treasurer to record a change, other than the mailing address and telephone number, it is considered an assignment and the \$100.00 assignment transaction fee will be charged. This includes a change in the buyer's name, buyer's number, or federal identification number. Failure to provide the correct federal identification number or Social Security Number at the time of purchase will result in a charge of \$100.00 for each certificate purchased.

Section-11 Treasurer's Tax Sale Deed

The tax sale certificate holder is required to remit the appropriate deed issuance fee and recording fee to the Clayton County Treasurer within ninety calendar days after the redemption period expires. The county treasurer is required by statute to cancel the certificate of purchase for any tax sale certificate holder who fails to comply. If the certificate holder fails to complete action to obtain a tax sale deed within ninety calendar days after the redemption period expires and the County Treasurer cancels the tax sale, the tax sale buyer is not entitled to a refund.

The fee for the issuance of a Treasurer's Tax Sale Deed is \$25.00 per deed. Before issuance of said deed, the Treasurer shall collect the deed fee and all applicable recording fees made payable to the Clayton County Recorder. Upon receipt of the deed issuance and recording fees, the Treasurer will record the deed with the Clayton County Recorder prior to delivering the deed to the buyer.

Section-12 Erroneous Tax Sale or Assignment

If it is determined that any item was erroneously sold, the certificate of purchase will be canceled. The Clayton County Treasurer will reimburse the principal amount of the investment. The Treasurer will **not** pay interest.

If it is determined that a county-held certificate was erroneously assigned, the assignment will be canceled. The certificate holder will return the certificate of purchase, and the Clayton County Treasurer will reimburse the total amount paid for the assignment. Interest from the assignment date to the date of cancellation of the assignment will **not** be paid.

Section-13 Abandoned Parcel Law

Iowa law permits a county or city to purchase parcels offered at the regular tax sale or to require that a certificate be assigned to the county/city if the county/city files a verified statement of abandonment with the County Treasurer (see Iowa code § 446.19A). NOTE: § 446.19A is changed effective June 1, 2005 (SF 265) to include vacant lots.

Section-14 General Information

This document has been prepared to provide general information and guidelines relative to tax sale, tax sale assignment, tax sale redemption, buyer reimbursement, and the issuance of a tax sale deed. It is not an all-inclusive listing of statutory requirements, procedures or policy, nor is it to be construed as a legal opinion of the statutes governing tax sales. The Clayton County Treasurer reserves the right to reject any or all bids and to waive irregularities which appear to be in the best interest of Clayton County.

To protect your interest as a tax sale buyer and to determine your legal rights and remedies, we recommend that you consult with your legal counsel.

Prospective buyers should consult with their tax attorney or tax preparer to determine income tax ramifications that might result from a gain or loss as a result of purchasing a tax sale certificate of purchase.

§ 718.2, Code of Iowa - prohibits a buyer from impersonating a county employee. The maximum penalty for a violation of this statute is two years in prison and a fine of \$5,000.

Call the Clayton County Treasurer's Office (563) 245-1807 to obtain additional information.

The provisions of this document are severable. If any provision of this document is determined to be contrary to law, the remaining provisions shall remain in full force and effect.

This document is effective for taxes sold during the period of June 18, 2018 through June 17, 2019 and all their assignments thereof, regardless of the assignment date.

Adjourned 2018 Sales may be conducted daily Monday through Friday.

The doctrine of "buyers beware" applies to this tax sale.

Linda Zuercher

Clayton County Treasurer