

Office of Poweshiek County Treasurer
Lana C. Taylor, Treasurer
302 E. Main St.
Montezuma, IA 50171-0700

Telephone: 641.623.5128

Email: propertytax@poweshiekcounty.org

TERMS AND CONDITIONS GOVERNING THE ANNUAL TAX SALE OF JUNE 21, 2010 AND ADJOURNMENTS OR ASSIGNMENTS THEREOF

The 2010 annual tax sale will be held by the Poweshiek County Treasurer on the third Monday in June at 10:00 A.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 morning 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 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-2 Registering for the Tax Sale

All bidders must register prior to the tax sale. Deadline for registration is 12:00 Noon Thursday, June 17, 2010. Any person failing to return the completed Bidder Packet in a timely fashion will not be allowed to bid or participate in the Treasurer's Annual Tax Sale on Monday, June 21, 2010. A Bidder Packet will not be considered complete until all required documents and fees are received by the treasurer's tax office 302 E. Main St. Montezuma, IA 50171-0700. Postmarks will not be acceptable proof of timely registration.

Registration fee schedule:

Registration and bidder authorization fees are non-refundable.

- The registration fee is \$20.00
- The fee for authorizing an agent to bid for a registrant is \$10.00
- The fee for changing an authorized agent is \$10.00

The registration fee and authorized bidder fee includes bidding at the June 2010 sale and all associated adjourned tax sales.

The bidder must properly complete or provide the following forms:

- a. 'Registration of Tax Sale Bidder or Assignee' – A registered bidder must complete and sign a 'Registration of Tax Sale Bidder or Assignee' form each tax sale year.
- b. 'W-9' – A 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. October 2007) is provided in the Bidder Packet for your convenience. 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 an EIN. However, he or she must always furnish his or her individual name, regardless of whether he or she uses an SSN or EIN. A sole proprietor may provide a business name, but he or she will be required by the treasurer to list his or her individual name first on the accounts with the treasurer.*
- c. 'Agent Authorization' – A registrant must complete and sign the 'Agent Authorization' form if the bidder will not be representing him/herself at the tax sale. A bidder may designate one agent to bid on his or her behalf during the 2010 annual and adjourned tax sales. The fee for authorizing an agent to bid for a registrant is \$10.00. An employee of the Poweshiek County Treasurer's Office will not notarize this form.
- d. Provide proof of compliance with House File 256 – Iowa Code § 446.16 subsection 4. Eighty-third General Assembly a copy of which is attached as Exhibit A

Each 'Registration of Tax Sale Bidder or Assignee' form, 'W-9' form, and 'Agent Authorization' form will be reviewed for completeness and accuracy. **The 'Agent Authorization' form must be signed by the same individual who signed the 'Registration of Tax Sale Bidder or Assignee', and 'W-9' forms.** 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 17, 2010 to be eligible to bid at the annual tax sale. The bidder must complete the following steps to pre-register for the sale.

- a. Submit properly completed and signed forms: 'Registration of Tax Sale Bidder or Assignee', 'W-9', and 'Agent Authorization' (if applicable).
- b. If other than an individual provide copy of either a designation of agent for service of process on file with the Iowa secretary of state* or a verified statement meeting the requirements of chapter 547** on file with the Poweshiek county recorder.
- c. Submit the Registration fee of \$20.00.
- d. Submit the Agent Authorization fee of \$10.00 (if applicable).

* **See** Exhibit B – sample copy

** **See** Exhibit C – blank form

Please address mailed/delivered registration forms to:
Office of Poweshiek County Treasurer
Attn: Tax Office
302 E. Main St
Montezuma, IA 50171-0700

Authorization to Change Agent

A bidder may elect to change the name of the authorized agent one time **prior to** the deadline for bidder registration. The deadline for bidder registration is 12:00 Noon Thursday June 17, 2010. **A bidder will not be allowed to change the name of an authorized agent the day of the sale.** The fee for changing an authorized agent is \$10.00. The required form is included in the bidder packet.

Proof of age and identity

All bidders/buyers/assignees must be over the age of 18 years as of June 21, 2010. The treasurer requires valid proof of age; i.e., driver's license, non-driver ID issued by a state agency or certified copy of birth certificate. Bidders and authorized agents should be prepared to show proof of identity upon entering the building.

A registered bidder may be disqualified from the tax sale and all purchased certificates for the day may be canceled if the treasurer determines an unauthorized agent was bidding for the registered bidder.

An area in the back of the sale room will be designated for individuals who are not "properly registered" bidders of the tax sale and/or are attending as a visitor only.

Section-3 Bidding at Tax Sale

You may submit a mailed bid if you cannot attend in person; however, if another bid on the same item is received from a bidder who is present at the sale, the tax sale certificate will be issued to the bidder who is present.

If you are bidding by mail the treasurer must receive your bid prior to 12:00 Noon Thursday, June 17, 2010. The bid must include the following:

- a. List of the item(s) s/he is placing a bid.
- b. The percentage of undivided interest per item of his/her bid.
- c. Properly completed and signed forms as required in Terms and Conditions Section-2 Registering for the Tax Sale. Proof of compliance with Iowa Code § 446.16 new subsection 4.
- d. Payment in U.S. funds and in the form of a personal check, business check, money order, or any form of guarantee funds. A separate payment is required for each item number bid. A check drawn on an IRA account will not be accepted unless issued for the exact amount of the purchase. **Two party checks or cash will not be accepted.**

In cases where two or more mailed bids are received and the item is not sold to a person present during the sale, the mailed bid for the smallest percentage of the item will be awarded the certificate. In cases of a tie mailed bid, the mailed bid with the

earliest postmark will be awarded the certificate. The treasurer will use the random drawing process to randomly select a purchaser if multiple tie mailed bids are received with the same U.S. Postal Service postmark.

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 parcel number(s) within each district for the corresponding legal description(s) upon which you intend to bid. The Tax Department of the Treasurer's Office can help you obtain this information in the days prior to the sale.

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 his/her bidder number entered in the tax sale random drawing process. The Annual Tax Sale will begin promptly at 10:00 AM. **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 arriving late will not be allowed to enter the sale until the regularly scheduled 11:00 AM break.

Each item will be offered for sale to all properly registered bidders by the auctioneer, beginning with an opening bid of 100% undivided interest. Once the auctioneer announces the item to be sold, 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-parcel number and name of deed holder, the auctioneer 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 parcel 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 Poweshiek County Annual Tax Sale and violation may disqualify a bidder from the sale.

When the auctioneer determines 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, "sold", or refuse the item by announcing, "pass", 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 response of 'sold' to the auctioneer 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, the auctioneer will "idle" the bidder number until the next break in the sale, 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, the auctioneer will "idle" that bidder number for the duration of the sale. The bidder is responsible to make sure his/her number was activated through the registration "check-in" process prior to the start of the sale.

Although a properly registered tax sale bidder may technically and legally purchase tax sale certificates under multiple names/numbers, the bidder may only use **one bidder number and federal identification number** at a time. A properly registered bidder may only switch bidder numbers once during the Annual Tax Sale and ONLY upon notification to the registration desk that he/she is doing so. A "switch" of bidder numbers may only take place during a regularly scheduled break in the sale. The regularly scheduled break in the 2010 Annual Tax Sale is 11:00 AM. (note; "Properly registered" means the name(s) on the bidder's registration form, corresponding 'W-9', and 'Agent authorization' form are **identical** and the taxpayer's identification number furnished on the 'W-9' form is for the name as registered.)

Section-4 Purchasing Tax Sale Certificates

Payment is required at the conclusion of the sale. A separate payment instrument is required for each bidder number. 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 and cash will not be accepted for payment. A separate payment instrument is required for each bidder number.

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 his/her bank account, i.e., non-sufficient funds, account closed, etc., the buyer will have five business days following notification from the treasurer to repay with guaranteed funds or the tax sale certificate(s) will be canceled. If repaid with guaranteed funds, a \$30.00 service fee will be assessed for each check returned unpaid.

Please allow up to 15 days to receive your certificate(s). This allows the treasurer's staff time to complete posting of records, editing of certificates, and

balancing the proceeds received from the tax sale. It is the buyer's responsibility to verify that the tax sale certificates received are correct for the parcels purchased.

The tax sale certificate of purchase does not convey title to the buyer. The titleholder of record or other interested party retains the right to redeem within the statutory period, depending on the type of tax sale. If the tax sale remains unredeemed after the statutory period, the buyer may begin action to obtain a tax sale deed.

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.

If a buyer underreports the interest amount received, the Internal Revenue Service will direct the treasurer to implement a backup withholding procedure at the rate of 31% of the interest collected. If this should occur, the treasurer reserves the right to ban the buyer and all associated buyers from future tax sales.

The Poweshiek County Treasurer's Office will not provide or calculate year-end interest accruals or bookkeeping services other than to provide a copy of the redemption certificate at the time of reimbursement to the buyer.

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 Poweshiek 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 ninetieth day from the date of completed service.

A redeemed tax sale will include:

- A. The original tax sale amount (net tax, penalty, cost) 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 three hundred dollars. For clarification of cost 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.

The buyer is responsible for checking redemptions for which s/he holds the certificate of purchase to inquire if redemption funds are available for payment. The treasurer shall be held harmless if a reimbursement for redemption does not occur if a buyer has failed to inquire of the redemption status.

Upon surrender of the tax sale certificate of a redeemed parcel, either in person or by mail, the treasurer's tax office will issue a check for the redemption amount, reference section 6 of the Terms and Conditions. The earliest a reimbursement could occur would be on the first business day following the cashier – validated date of redemption, as shown on the county system. The purchaser will receive a check and a copy of the redemption certificate, to be retained for income tax purposes.

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.

All tax sale certificate redemptions will be paid by guaranteed funds, cash, or the following credit cards: Visa Card – MasterCard – Discover Card

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 s/he holds the tax sale certificate, beginning fourteen days following the date from which an installment becomes delinquent, (i.e. October 15 and April 15). 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. A separate payment instrument is required for each bidder number. This request is all inclusive of any and all subsequent tax paid through the Office of Poweshiek County Treasurer. Only items due in the current fiscal year or prior year may be paid on a “sub-list”. Special assessments due in future years cannot be paid until the fiscal year in which they become due. Failure to report sub-list payments will result in their omission from the redemption calculation. 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. Central Standard Time) 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 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 Poweshiek 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 Poweshiek County.** It is Poweshiek 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 Poweshiek County.** It is Poweshiek 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.

Failure to Request Tax Deed

After the redemption period has expired, the tax sale certificate holder must return the Certificate of Purchase and remit the appropriate deed issuance and recording fees to the county treasurer prior to the close of business on the ninetieth day from the date of completed service or as allowed by law. Failure to comply will result in cancellation of the certificate of purchase, and the certificate holder is not entitled to a refund.

Section-10 Assignment of a Tax Sale Certificate

The tax sale certificate of purchase is assignable by endorsement of the certificate, payment by the assignee of a \$100.00 assignment transaction fee, and submittal of the certificate to the county treasurer for posting to the county's system. An assignment is not considered valid until posted to 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 and/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 (641) 623 5128 regarding the assignment of a certificate.

When a buyer requests the treasurer 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 return the certificate of purchase and remit the appropriate deed issuance fee and recording fee to the Poweshiek 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 Poweshiek County Recorder. Upon receipt of the deed issuance and recording fees, the Treasurer will record the deed with the Poweshiek 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. This includes web payments received the day of the sale and prior to a successful bid. The certificate holder will return the certificate of purchase and the Poweshiek 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 Poweshiek 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 Tax Sale Publication

For a copy of the official tax sale publication please contact one of the area local newspaper offices.

Section-15 Americans with Disabilities Act

A bidder who qualifies under the 'Americans with Disabilities Act' and requires accommodation in relation to his/her disability must provide a health care provider's certificate containing proof of disability to the Poweshiek County Treasurer's Office and a written request detailing the specific reasonable accommodation requested not less than thirty calendar days before the tax sale. This will allow the Treasurer time to provide appropriate and timely accommodations.

Section-16 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 Poweshiek County Treasurer reserves the right to reject any or all bids and to waive irregularities which appear to be in the best interest of Poweshiek 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 Poweshiek County Treasurer's Office (641) 623 5128 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 21 2010 through June 20 2011 and all their assignments thereof, regardless of the assignment date.

The doctrine of caveat emptor, meaning 'buyers beware', applies to this tax sale.

Lana C. Taylor
Poweshiek County Treasurer
P.O. Box 700
Montezuma, Iowa 50171