

**Taxes—Payment of General Taxes Without Paying Irrigation Taxes and Hail Insurance Taxes.**

The County Treasurer may receive the amount of general taxes without at the same time requiring payment of irrigation taxes or hail insurance taxes.

John S. McClory, Esq.,  
County Attorney,  
Shelby, Montana.

My dear Mr. McClory:

You have inquired whether the County Treasurer may accept from a taxpayer the amount of his general taxes without collecting at the same time his irrigation tax, also his hail insurance tax.

The statutes make no specific provision in this regard, and resort must, therefore, be had to the general law on the question. While the rule is established that a taxpayer may not pay a portion of a given tax, this would not seem to apply to the paying of the whole of one class or kind of tax while omitting to pay a tax of a different class.

The rule is stated in 37 Cyc. 1164, as follows:

“The law ordinarily intends that taxes shall be paid in full at one time, and unless it is otherwise provided by statute, a taxpayer cannot tender a portion of the tax due and demand a receipt therefor. But the citizen always has the right to

pay the amount of any one tax listed against him, while refusing or omitting to pay others, or to pay the taxes for the current year, and contest those assessed for previous years, or to pay the tax on any one piece or item of his property which is separately assessed, without offering to pay the taxes on other parts."

The case of *Coit v. Claw*, 28 Ark. 516, contains the following language:

"Whether the owner of real estate will pay all taxes, or pay one kind and not another, or let his lands go to sale for all or part, are questions for him and not for the collector to determine."

The question has been passed upon directly in Colorado in *Interstate Trust Co. v. Smith*, 181 Pac. 126, the syllabus of that case reading as follows:

"A county treasurer may accept general state, county, and school taxes levied against lands in an irrigation district, without at the same time requiring the payment of the irrigation district assessments; such assessments being special taxes levied for local improvements only."

See, also, *Central Pac. Ry. Co. v. Gage*, 189 Pac. 643.

It has been held by a previous Attorney General, Volume 8, *Opinions of Attorney General*, 532, that when the amount of a seed loan has been extended as a tax, the same may be paid without the necessity of at the same time paying the general taxes. This office has also held in an opinion rendered to R. B. Hayes, County Attorney of Custer County, on July 26, 1921, that the general taxes may be paid without the necessity of paying the seed loan extended as a tax.

In the absence of statutory provision on the matter, either authorizing or forbidding the acceptance of taxes separately, the rule as stated in 37 Cyc., supra, may be adopted, and it is my opinion that the County Treasurer may receive the amount of the general taxes without at the same time requiring payment of irrigation taxes or hail insurance taxes. This action will not, however, release the land in any manner from the lien of the other taxes, or affect the penalties attaching or the liability of the land for said taxes in case the same are permitted to become delinquent.

Very truly yours,

WELLINGTON D. RANKIN,

Attorney General.