

**Taxes—Delinquent—Collection of Interest.**

The County Treasurer is required to collect interest at one per cent per month on delinquent taxes from November 30, 1920, to the date taxes are paid, when such taxes are paid prior to October 1, 1921, under the provisions of Chapter 2 of the Laws of the 17th Legislative Assembly.

Edwin J. Cummins, Esq.,  
County Attorney,  
Deer Lodge, Montana.

My dear Mr. Cummins:

You have requested my opinion on the following question:

"In remitting the penalty for taxes delinquent that have been paid, shall interest be charged from November 30, 1920, to the date that the delinquent taxes were paid?"

This question arises on an interpretation of House Substitute for Senate Bill No. 95, approved by the Governor January 13, 1921, which will appear as Chapter 2 in the Session Laws of the 17th Session.

Section 3 of that Act reads as follows:

"That the penalty of ten (10) per cent heretofore added to all taxes delinquent for the year 1920 is hereby remitted until the first day of October, 1921, at which time such penalty shall be added to all such taxes then remaining unpaid; provided, that in all cases where such penalty has been paid on taxes delinquent for the year 1920, such penalty shall be refunded by the Board of County Commissioners, or the City Council, as the case may be, upon claims filed therefor in the same manner as other claims are filed, as required by law; provided further, that no such claim for refund shall be allowed on any claims filed after June 1st, 1921; Provided further, that all delinquent taxes for the year 1920 shall bear interest at the rate of one (1) per cent per month from November 30th, 1920, until paid."

It is evident that the Legislature intended to remit only the ten per cent penalty on delinquent taxes paid at any time before October 1, 1921; also that the penalty alone was to be refunded on taxes that were allowed to go delinquent November 30, 1920, and have since been paid, and this only in case claim was made therefor prior to June 1, 1921. Had it been intended to remit or refund the interest accrued, it seems that the Act would read "penalty and interest" instead of "penalty" only.

To make it more certain and clear, the last proviso of the above quoted section reads:

"Provided further, that all delinquent taxes for the year 1920, shall bear interest at the rate of one (1) per cent per month from November 30, 1920, until paid."

This, I think, clearly indicates the intention of the Legislature not to remit or refund interest on delinquent taxes, and clearly answers your question.

It is, therefore, my opinion that, under the provisions of House Substitute for Senate Bill No. 95, being Chapter 2 of the 17th Session Laws, the County Treasurer may refund only the penalty on delinquent taxes for 1920, and should collect interest on such delinquent taxes at one per cent per month from November 30, 1920, to the date the delinquent taxes are paid.

Very truly yours,

WELLINGTON D. RANKIN,  
Attorney General.