

Taxation—Cities and Towns—County Treasurer—Delinquent Taxes—Penalties.

Under the provisions of section 5214, R. C. M. 1921, the county treasurer is required to collect the interest and penalty upon delinquent city taxes for the use of the city.

D. L. Egnew, Esq.,
City Attorney,
Hardin, Montana.

January 24, 1925.

My dear Mr. Egnew :

You have requested my opinion whether a city is entitled, under section 5214, R. C. M. 1921, to its portion of the penalty and interest on delinquent city taxes collected by the county treasurer.

This question was passed upon by former Attorney General Galen (Vol. 4, Opinions Attorney General, page 382), and the conclusion reached

that the city was entitled to the original tax and interest but was not entitled to the penalties which latter it was held should go to the county.

The above opinion was based on section 2622 of the codes of 1907 which is section 2175, R. C. M. 1921. This section contained the following language:

“The county treasurer must collect, for the use of the county, an addition of ten per cent.”

In 1923 the legislature enacted chapter 96 of the sessions laws of that year, section 1 of which clearly supersedes section 2175, R. C. M., 1921. The act of 1923 reads:

“A penalty of five per cent shall be added to all delinquent taxes.”

In my opinion, the omission from the act of 1923 of the words “for the use of the county” necessarily leads to a different conclusion on this question than that which, I believe, was correctly announced by Attorney General Galen in 1912 in the opinion above referred to.

Since there is now no statutory provision that the interest and penalties on delinquent taxes shall be collected “for the use of the county,” it is my opinion that under section 5214, R. C. M., 1921, the county treasurer must collect the penalties and interest on delinquent city taxes for the use of the city.

Very truly yours,

L. A. FOOT,

Attorney General.