

Taxes—Royalties—County Treasurers.

A County Treasurer must accept payment of a royalty tax from the several owners notwithstanding that all royalty taxes are assessed to operator.

State Board of Equalization,
Helena, Montana.

January 28, 1929.

Gentlemen:

You have requested an opinion whether it is the duty of the Treas-

urer of a county to accept payment under Chapter 140, Laws of 1927, of taxes due on royalty under the following conditions:

A person engaged in mining offers to pay the taxes due on all royalties excepting the tax due from the royalty of a given royalty holder. The County Treasurer refuses to accept such payment unless full payment is made, including payments of the taxes due on the royalty in question.

The provision of the act is as follows:

“* * * such assessment when entered shall have all the force and effect as if made in the names of the owners of such royalty individually. Immediately upon the spreading of such assessment the County Clerk shall deliver to such operator a full and complete list showing all assessments against such royalty owners and each thereof. The operator and the royalty holders shall be jointly and severally liable for the payment of the taxes assessed against such royalty and such taxes shall be payable by, and may be collected from such operator in the same manner and under the same penalties as provided for the collection of taxes upon net proceeds of mines, * * * .”

It would appear that the individual royalty owner has a right to pay the tax which is due from his particular royalty. Under such an event there would be no alternative left to the individual operating the mine except to pay the tax on the balance due from royalties as distinguished from paying the amount in full. It follows logically then that he has the right to pay the tax on the separate royalties as individual items.

I am unable to find anything in the law which directs the County Treasurer to collect the full amount from one person, and under the provisions of Chapter 140, supra, you are advised that it is the duty of the County Treasurer to accept payment of the tax, which is tendered on one or more of the royalties which are entered on the assessment list.

We have given consideration to the clause which says that the County Clerk shall thereupon, for convenience, enter such assessment on the personal property assessment list under the name of the **operator of such mine or mines**.

I have also given full consideration to the rule that the tax for a given individual is payable in full and not by piece-meal, and this opinion is based on the language of the statute which makes the tax a tax of the individual royalty owner.

Very truly yours,
L. A. FOOT,
Attorney General.

By L. V. Ketter, First Assistant.